

HM Land Registry

Quinquennial Review

A Report by Andrew Edwards
June 2001



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QUINQUENNIAL REVIEW OF
HM LAND REGISTRY

A REPORT

COMMISSIONED BY THE LORD CHANCELLOR
AND PREPARED BY ANDREW EDWARDS
WITH HELP FROM
AN INTER-DEPARTMENTAL STEERING GROUP
AND A REVIEW TEAM

QUINQUENNIAL REVIEW OF HM LAND REGISTRY

A REPORT BY ANDREW EDWARDS

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SEVEN PILLARS



World-class
legislation

Comprehensive
Register
coverage

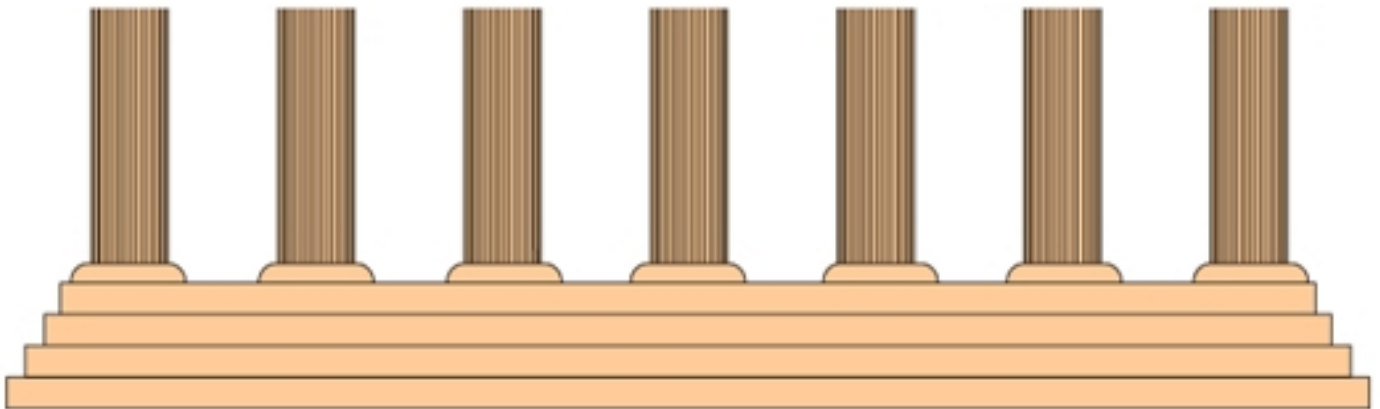
Fully
Computerised
Register
and one-stop
electronic
searches

e-conveyancing,
Property Market
Charter &
World-class
Transaction
systems

Transparent
Property
markets

Independent
Adjudication

Extended public
Services:
Education
Publications
Advisory



PRINCIPAL ISSUES FROM THE REPORT

General

The Land Registry registers property throughout England and Wales, and guarantees ownership and charges over it, for the benefit of all who have interests or transactions in property.

The Registry has a high reputation with customers and staff for invaluable services sensitively delivered. It successfully brings together some of the best traditions of public service, disputes resolution and adjudication.

Strategic programme

The Registry could further enhance the value of its public services by joining with others in building a new strategic programme for the present decade around seven pillars:

1. a new Bill, in place of the Land Registration Act 1925, to prepare the way for ownership and transfers by registration and to strengthen the legal framework in areas such as adverse possession, overriding interests, notices and electronic transactions
2. completion of the Register's geographical coverage by 2010, registration of new leases above 3 years, enhanced information on ownership, mortgages and financial transactions, and enhanced mapping
3. a fully electronic Register by 2003, enabling instant electronic delivery of up to date property information, including one-stop comprehensive searches through NLIS
4. e-conveyancing by 2005, including e-lodgement of applications, e-

certificates and deeds, electronic settlement (if possible) of payments due on completion, and re-engineering by Government and practitioner bodies in a new Joint Property Market Charter and Forum of the national processes for buying and selling houses

5. promoting transparent property and mortgage markets through publication, with the Valuation Office and others, of much enhanced market information
6. an independent Land Registry Adjudicator to deal with boundary and adverse possession disputes
7. a new self-financing Advisory Service, largely staffed by part-time former employees and working with the private sector, for international consultancy, specialist issues of registration and title, preparation of title plans, advice for lay e-conveyancers, and historical research.

The re-engineering of housing market processes should be capable of reducing the average period between handshake and contract from 8 weeks to around 3 as well as introducing completion of transfers by registration. Electronic settlements on completion, if practicable, through a clearing house and associated trust, should reduce the strains on conveyancers' client accounts and insurance costs.

The suggested programme includes many new elements as well as attaching specific content and timetables to existing programmes.

On present projections, the Registry should be able to deliver the

programme within existing levels of permanent staff.

Land Charges and bankruptcy

The Registry's Land Charges Department maintains an Index of persons named in bankruptcy petitions and orders. The Registry, Insolvency Service and Court Service need to work together to upgrade the quality and processes surrounding this important Index. The Insolvency Service should probably take over responsibility for it.

Governance

Land registration needs to remain a public service delivered with the help of private sector partnerships. Public confidence in property ownership and charges depends on the Registry's unquestioned ability to guarantee titles. Resolution of the many disputes surrounding property depends on the Registry's visible impartiality. Privatisation of the whole or parts would set back the strategic programme by years.

A formal Ministerial Group, and an Inter-Departmental Group at senior official level, should preferably be formed in due time to oversee strategy for the national property markets as a whole and co-ordinate present and future initiatives, including the Seller's Pack, e-conveyancing, re-engineering of market processes and market transparency. The Groups could meet in a wider forum, too, with outside stakeholders, in the context of the suggested Joint Property Market Charter.

The Registry does not have the flexibility to manage its finances sensibly, taking one year with another, that was clearly intended under the Trading Funds Legislation. A Memorandum of Understanding with

the Treasury is needed. This should cover the Registry's need to retain substantial cash reserves against indemnities.

The Registry's internal organisation should be adapted to strengthen the focus on delivering the strategic programme and managing the associated changes, including new structures for Bill preparation and implementation, e-conveyancing, education & training, market statistics, Land Registry Advisory Services and a small strategy unit as well as the independent adjudication unit.

The Registry needs statutory powers to confirm its ability to form corporate vehicles and joint ventures for the effective delivery of registration and related services. A new joint corporate vehicle involving the Registry, and possibly other government bodies, as well as Local Government bodies, is needed to oversee management of the National Land Information Service project and contracts.

Individual departments

The Registry's individual departments have great strengths. Particular successes have included customer service, the management of indemnities, the re-engineering of operational processes, good employer policies and IT deployments.

All departments should benchmark themselves on a continuing basis against comparable departments outside.

There is scope for still further improvements in service levels, productivity, key performance indicators, fee levels and structures, handling of payments, pooling of experience and rationalisation of personnel services.

HM LAND REGISTRY QUINQUENNIAL REVIEW SUMMARY AND MAIN CONCLUSIONS

1 Introduction

The Lord Chancellor invited me in September 2000 to conduct a Quinquennial Review of Her Majesty's Land Registry. The terms of reference are at Annex A.

In conducting the Review I have received much invaluable help from the Steering Committee, members of the Review Team, Land Registry officials, officials from other Government and local authority bodies, representatives of the main stakeholder groups, officials from the Canadian provinces of British Columbia and Ontario, and the people who wrote to me about the Review. I thank them all. (1.3)

The accompanying Report presents the results of the Review. This Summary encapsulates my main impressions and suggestions. The sideheadings correspond to the Chapters of the Report. The cross-references are to the relevant sections of each Chapter.

2 Land Registration so far

On behalf of the Crown, the Registry guarantees the ownership of registered land and property, and charges over it. When errors occur, the Registry rectifies the Register and / or pays indemnities on a no-fault basis. Most properties in England and Wales are now registered. But the Register is not yet complete.

The Registry processes about 3.5 million applications a year for registration or changes in registration and around 15 million searches and enquiries. Most Register entries and title plans can now be searched

electronically but electronification of the applications processes is only just beginning. (2.6)

The Registry also maintains a Land Charges Register and an Agricultural Credits Register. The former enables lenders to record charges against unregistered land. It also doubles as a comprehensive national index of bankruptcy orders and petitions. Searches and applications against this Register are running at around 3 million a year. (2.7)

The Land Registry has been a Government Department since 1862, an Executive Agency since 1990 and a Trading Fund since 1993. (2.10)

3 Perceptions and consultations

The Registry has an enviable reputation, well justified in my opinion, for discharging important national tasks with efficiency, integrity and courtesy. Its lawyers are well-respected. Its other staff are widely seen as doing a good job. The commitment of staff at all levels is exceptional. The Registry scores extremely well in customer satisfaction and staff opinion surveys. (3.1 to 3.3)

In the consultative exercise for this Review, the Registry was widely seen as providing a service of real class and quality. There was some feeling, on the other hand, especially among the professional groups, that while land registration generally works well the property market as a whole works less well. (3.4)

The professional groups made a number of constructive suggestions for further improvement. The

conveyancers I consulted, while generally supportive of the Registry, felt that there are too few suitably skilled staff to deal with the more complicated applications and too many delays in processing first registrations and title plan alterations. The Registry has made clear that, while it has gone out of its way to raise skill levels through training programmes, it takes any such criticisms seriously and is determined to make improvements wherever possible. (3.4 and 5.7)

4 Strategy: strategic programme

The fundamental issue for the Registry, as it looks ahead over the next five and ten years, is what it should be trying to do. Chapters 4 to 10 focus accordingly on what the Registry's strategy should be.

The Registry has scope for making much progress, for the benefit of all who have interests or transactions in land and property and ultimately of the country as a whole, without putting at risk the precious possession of a robust and trusted national registration system. (4.3)

The Report suggests accordingly that the Registry's strategic aim should be to develop, promote and maintain world-class systems for guaranteeing ownership of land and for buying, selling, leasing and mortgaging of property in England and Wales, within a framework of transparent land and property markets. (4.3, 4.5, 4.9 and Box 4.3)

The Report recommends a strategic programme for the next ten years built around seven main objectives or "pillars", as follows (4.3, Boxes 4.3 and 4.4):

1. To prepare and promote *new world-class legislation* providing for improved national systems for land registration, guaranteed ownership, transfers, leases and mortgages, including use of e-technologies, and opening the way to ownership and transfers by registration rather than registration of ownership and transfers from Sept 2005
2. To develop a *Register with comprehensive national coverage* of freehold titles and enhanced mapping (by 2010), including new leases over 3 years (from June 2003) and fuller details of owners, leases, mortgages, other interests and prices (from Oct 2003)
3. To make the Land and Land Charges Registers *fully electronic and accessible electronically* (texts, scanned title plans and supporting documents by June 2003, index map by June 2004, digitised title-plans by 2010) and to promote, through a new structure with other public sector providers in partnership with the private sector, the one-stop *National Land Information Service*, available online to all, coupling information on the Land Register with other information relevant to users, especially buyers and sellers
4. To introduce "*e-conveyancing*" facilities of *e-lodgement* for changes in the Register (optional Jan 2003, possibly obligatory Jan 2004), *electronic certificates and deeds* (Jan 2003), and if possible

electronic settlements at completion (Jan 2004 / Jan 2005), and to *re-engineer the national systems* for land and property transactions (transfers by registration and streamlined pre-contract stage from Sept 2005) with the help of a *Joint Property Market Charter and Forum* with other service providers (May 2002)

5. To promote with others *transparent and well-functioning markets* in land, property and mortgages, through fuller disclosure on the Register of financial information on leases and mortgages (Oct 2003) and monthly publication jointly with the Valuation Office and others of much enhanced national, regional and district data for the property markets (Oct 2003)
6. To provide (by Jan 2003) a fully independent *adjudication service* in the Land Registry
7. To launch *education and publications units* (Dec 2001) and self-financing *advisory services* for international consultancy, registration and title issues, and title plan preparation (Jan 2002), and for lay-conveyancers and historical research (Jan 2003)

An important feature of the suggested programme is that it sets provisional target dates for delivery of each of the main elements:

- *delivery by 2003* of a fully electronic Register, many elements in e-conveyancing, a Joint Property Market Charter, coverage of all new leases above 3 years, enhanced mapping facilities, an independent adjudication service, new property market publications and new advisory services

- *delivery by 2005* of full e-conveyancing accompanied by re-engineering of the national property market transaction processes designed to reduce delays between handshake and contract from eight weeks to three and eliminate delays between completion and registration
- *delivery by 2010* of a Register with complete national coverage and title plans mostly digitised.

A fuller suggested timetable is in Boxes 4.5 and 4.6 of the Report.

The Report says that the Registry should be able to deliver the suggested programme and timetable within existing staffing levels (about 8,250 full-time equivalents including overtime). The programme will be staff-intensive. But the number of staff required for on-going work will fall as the full benefits of new working processes made possible by the new e-technologies come through. (4.7)

If, on the other hand, the Registry were to reduce staff from present levels to (say) 7,000 full-time equivalents, only a fraction of the Register completion programme in the pillar 2 objective would be capable of being delivered within the timetable suggested. (4.7)

The Report includes detailed projections of staffing requirements over the decade in support of these propositions. The broad picture seems robust. The detail is necessarily uncertain. (4.8 and Box 4.8)

In accordance with the pillar 1 objective, the Report commends the case for a new Act of Parliament to replace the Land Registration Act 1925 as amended. The aim should be to have

legislation of world class, with substantial rule-making powers, covering the points on registration, adverse possession, overriding interests and notices discussed in the Consultative Paper of 1998 by the Registry and the Law Commission, *Land Registration for the 21st Century*, and to the extent possible the other statutory requirements identified in this Review. (4.10)

If the Government decides to introduce such a Bill this year, the Registry with the other Departments concerned will need to establish a Task Force for the Bill, a Bill team and an implementation team as soon as practicable. (4.11)

Apart from work on the Bill itself, the challenges of working with new legislation will be considerable, both for Registry staff and for outside practitioners. The Registry will need to put together in short order a change management programme covering new practice materials and special programmes of education and training for staff and practitioners. (4.12)

5 Strategy: completing, extending and upgrading the Register

Geographical coverage

The Report suggests that there are compelling arguments for proceeding rapidly to complete geographical coverage of the Register in accordance with the pillar 2 objective.

Despite the advances of the last century, some 20 to 25 per cent of titles probably remain unregistered. Some 17.8 million titles are now registered. Those unregistered may be around 5 million or more.

Although the vast majority of owners will probably wish to register, an extension of present compulsory powers will probably be needed in due course to ensure complete coverage.

The suggested target to achieve complete geographical coverage by spring 2010 is likely to require deployment of around 600 extra staff on average over a period of 8 years in addition to those who already work on first registrations. With more staff, the target could be achieved earlier.

Within the target, priority would preferably be given to properties more likely to be the subject of transactions, such as dwellings, offices, shops, warehouses, factories and other commercial buildings.

Simpler forms of registration may be suitable for certain categories of land not likely to be the subject of transactions. (5.2)

Ownership

With regard to ownership of registered properties, the Report notes that there is a strong case for recording the true or beneficial owners on the Register where these differ from the nominal or legal owners. This would accord with Parliament's clear wish, reflected in earlier statutes, that the Register should record the owners of properties, and with the increasing emphasis in other statutes on transparency so as to combat money laundering.

The Register would continue to record legal ownership (thus avoiding wider implications for land, property and trust law) but would include as well a notice stating what the legal owners have declared about true or beneficial ownership, at least in cases where this differed from legal ownership. The

Registry would not guarantee the truth or falsehood of such declarations.

The nature of the proposed notices and the handling of such a reform would require careful consideration and consultation. The Registry would preferably be able, on advice from the law enforcement and other relevant authorities, to maintain a confidential record of the declaration in cases where publication would significantly increase the hazards to the persons concerned or even, in exceptionally sensitive cases, to waive the requirement for declaration altogether.

If the Government decides to pursue this course, statutory provisions in some form would be needed. The Report discusses several possibilities. (5.3)

Introduction of the new suggested requirement could initially be quite staff-intensive. There should, however, be scope for switching staff from first registrations for a limited period without jeopardising the programme for completing the Register. (5.3)

Leases

The Report argues for registering all new or re-assigned leases with more than 3 years to run rather than limiting registration as at present to those with more than 21 years to run.

Lessees (tenants) or their representatives would be required to state the main terms in a new standard application form and summary page, both capable of electronic transmission, designed to cover the requirements of the Inland Revenue and Valuation Office as well as the Registry.

These improvements would enable the Registry and the Valuation Office to bring transparency to one of the economy's least transparent markets. They would also assist in bringing transparency to the Valuation Office's assessments for business rates.

Registration of leases would also make a decisive contribution to reducing the number and scope of overriding interests not recorded on the Register.

The 3-year cut off period would correspond with the requirement in the Law of Property Act 1925 that leases for periods above 3 years must be granted by deed.

The Registry estimates that the proposal would generate around 45,000 extra cases a year requiring about 80 staff on a continuing basis. (5.4)

Other enhancements

The Report suggests that the Registry and the Valuation Office should collect enhanced and co-ordinated information at the time of registration on types of property, floor areas, financial considerations and mortgages as well as on other aspects of leases.

The present Registry application forms and Inland Revenue particulars delivered forms for both sales and leases would be consolidated so as greatly to enhance the scope for publishing useful statistical information on the various markets in property sales, leasing and mortgages, while also reducing compliance burdens. (5.5 to 5.7)

Points from the consultations

The report discusses a selection of points raised in the consultation,

including the trade-off between service quality and fee reductions, the ‘sewing’ of documents into the Register, delays in first registrations, concern about skill and qualification levels, the need for accessible publicity materials, mapping improvements and the need to reduce the high incidence of errors in applications made to the Registry.

6 Strategy: Mapping

The registration process depends heavily on

- (a) title plans, forming part of the Register, which define the location and extent of the registered title within general boundaries, and any rights of way, and
- (b) the Index map, not forming part of the Register or performing any legal function, but designed to help Registry staff and other users to identify properties and to see whether they are registered and how they fit with neighbouring properties.

The Report argues that the Registry should stick with the present, well-established system of “general boundaries”, not purporting to be accurate to within a few inches, while continuing to allow fixed boundaries where requested. (6.5)

For the longer-term, the Report suggests that title plans and index maps ought preferably to be fully digitised, based on a common set of digitally held data, consistent with each other and with the Ordnance Survey, continuously updated wherever possible in line with Ordnance Survey as well as changes in registered extents, readily accessible online, and capable of being readily overlaid on

Ordnance Survey maps and aerial photographs.

So far, the Registry has scanned all existing title plans and has introduced a facility to generate digital title plans. By the end of 2001, all new title plans will be prepared in this way. Only some 250,000 out of approaching 18 million existing title plans, however, are currently digitised.

The Registry is about to launch a programme to digitise the index maps by 2004 in a three-year project that will require about 200 staff on average over a three-year period.

The Report endorses the Registry’s existing projects but suggests that there will be a case in addition for digitising the stock of existing title plans from 2004 onwards after completion of Index Map vectorisation.

On present technologies and processes, this would be a staff-intensive project, requiring approaching 500 staff over 8 or 9 years. The Report suggests some ways in which it may be possible to lighten and accelerate the task so as to complete vectorisation of the vast majority of title plans, at least, by the end of 2010. (6.6 and Box 6.3)

The Registry would need to develop practical ways of dealing with the minority of cases where digitisation reveals problems or defects in existing plans. (6.7 and 6.8)

The Report suggests that the Registry should take early action to make its mapping and related services more attractive and user friendly through improved information for users of maps and new facilities for coloured maps and overlay of boundary grids on Ordnance Survey maps and aerial photographs. There should be closer

co-operation with the Ordnance Survey both in these areas and in the area of property surveys. (6.9 to 6.11)

Proposals for Title Plans submitted with applications for registration of new titles often cannot be reconciled with the latest OS map. This causes unnecessary delays and expense.

The Report suggests that the Registry should strengthen and enforce the 1925 Rule on use of the OS map. Where the address of the property does not enable its extent to be fully identified on the latest OS map, applicants should be obliged to submit plans based on the latest OS map, and the Registry should enforce the requirement. (6.12)

The Registry should also consider introducing a new fee-based mapping advisory service to help customers and practitioners who so wish in the preparation of draft title plans for registration of new titles. This would be one of several self-financing advisory services provided by a new Advisory Services subsidiary of the Registry (LRAS) (see section 10).

The new service would be available alongside the services which the Registry itself provides free on request to enable developers to check that the Registry will accept their view of ownership extents. (6.13)

7 Strategy: an e-Register

The Registry is well placed to deliver, and indeed more than deliver, the Government's Modernising Government targets for making 25 per cent of relevant services available online by 2002 and 100 per cent by 2005. (7.3)

In addition to the progress on mapping noted above, the Registry has

converted over 96 per cent of its Registers to electronic form and begun the scanning of almost 10 million files containing deeds and other documents referred to in the Register. New documents received are all scanned. The Register texts and title plans should be fully accessible online by July 2003. (7.4)

The Registry introduced in 1994 a Direct Access facility for clients to access the Register online. Racal Telecom (now Global Crossing) took over the security and customer service functions in 1997. In June 2000 the Registry and Global Crossing launched an upgraded version called LR Direct. This facility enables clients to make electronic searches and office copy requests and now also to notify certain simple Register changes online. (7.6)

In 2000, after much prior work by the Registry with other Government and local authority bodies, the Lord Chancellor announced a new National Land Information Service, NLIS. This is intended to be a "virtual" comprehensive one-stop property database, available online to all, coupling information from the Land Register with other information relevant to users, especially buyers and sellers. Conveyancers and others will be able to launch a single, comprehensive search of a property rather than a multiplicity of searches. (7.7)

A related project for a National Land and Property Gazetteer, NLPG, will, alongside other important objectives, support the NLIS project by enabling cross references to be made to other data sources through a system of unique national addresses or Unique Property Reference Numbers (UPRNs). (7.7)

The Local Government Information House, LGIH, a subsidiary of the Local Government Association's Information and Development Agency, IDeA, has acted as public sector client in contracting private sector partners to implement these projects.

On advice from CCTA, LGIH has awarded a single "hub" provider contract and several (in practice, three) channel provider contracts. The channel providers take data from the hub and retail it along with other data and services to clients. The hub provider connects data providers to the hub and the hub to the channel providers. The hub went live in February 2001.

The Report suggests that NLIS is an excellent model which has the potential greatly to simplify conveyancing searches.

The Report suggests that the Government could help NLIS by setting a firm target within the framework of the Best Value programme for local authorities to organise their searches data, like the Land Registry, in electronically accessible Register form by 2005. NLIS's success in the short term will depend importantly on persuading local authorities to deliver this service.

The Report also suggests that the governance of NLIS needs to be reviewed. Section 14 elaborates on this. (7.7)

8 Strategy: e-conveyancing

Main elements

The Report suggests that an e-conveyancing system should be seen as comprising four main elements:

- i. *e-lodgement* (and e-confirmation) of applications for changes in the Register
- ii. *e-certificates and deeds*: replacement of paper Certificates and Deeds, held by owners or practitioners, with electronic versions held by the Land Registry
- iii. *electronic settlements* between all the parties concerned in property transactions, especially on completion, and
- iv. *accompanying improvements in the wider national systems* for property transactions made possible by these advances in e-technology. (8.1 and Box 8.1)

Main phases

The Report suggests that the programme for e-conveyancing might best proceed in three overlapping phases:

- *Phase One* would consist of preparation and implementation of the e-lodgement and e-deeds facilities, and preferably an electronic settlement facility.
- *Phase Two* would make some, at least, of the facilities introduced in Phase One obligatory.
- *Phase Three* would be to re-engineer the wider processes. Preparation and consultation for this Phase would begin straight away with a view to delivery in 2005. (8.1)

e-lodgement

E-lodgement of applications offers the prospect of reduced work, especially

for the Registry, reduced errors by conveyancers and the Registry, and hence substantially reduced costs. It also has the potential to enhance protection against fraud. (8.2)

To prevent fraud, it will be necessary to develop procedures whereby any practitioner using the e-options would have authorised e-signatures and authentication which the Registry could recognise and check. (8.3)

The Report suggests that the Registry would need to retain some form of vetting of applications, probably computer-assisted, so as to protect the Registry's computer systems against suspicious applications, obvious mistakes and computer viruses. (8.4)

There have been suggestions that the Registry should introduce a special regime to license or contract conveyancers. Only then would they be permitted to apply online for changes to the Register.

The Report notes that the Registry will continue to rely heavily on conveyancers for the integrity of the Register and is rightly concerned therefore to build in protection against possible fraud and incompetence.

The Report suggests, however, that the Registry would do better to make arrangements with the regulatory bodies for professional conveyancers, currently the Law Society and the Council for Licensed Conveyancers, CLC, to look after the Registry's requirements for authentication and accreditation as well as other regulatory requirements. The Registry could then allow any licensed practitioner to access the Register.

A practical issue is that the main Regulatory body for conveyancers, the

Law Society, is not just a Regulator but also the professional association for solicitors, including conveyancing solicitors. It would be necessary to ensure that the Law Society would realistically be able to set the necessary standards and deliver the necessary enforcement, including a willingness to suspend licences.

An alternative approach would be for some combination of the Government, the Law Society and the CLC to set up a single, dedicated Regulatory body, not doubling as a Professional Association, to regulate the activities of all professional conveyancers. This clearly, however, raises wider issues. (8.5)

e-certificates and deeds

Replacing paper certificates and deeds, especially land and charge certificates, with readily available electronic versions held by the Land Registry would enable conveyancing transactions to be paperless.

It would have the great advantages of reducing anxieties for owners, reducing storage for lenders and conveyancers, and reducing costs for lenders, conveyancers and customers.

A beginning has been made with the Registry's recent initiative, alongside the initiative for electronic notification of mortgage discharges, to introduce "de-materialisation" of Lenders' Charge Certificates. (8.6 and 8.7)

Electronic settlements at completion

A fully developed system for electronic settlements at completion, along the lines of the Stock Exchange's CREST system, would enable the parties to a land or property transaction to make and / or receive payments

electronically and with immediate effect, probably with the help of a clearing house and associated trust, at completion.

Such a system would in principle reduce the role of conveyancers' client accounts, with all the associated responsibilities and risks. It should reduce transaction costs. It should reduce the scope for fraud and enable large reductions in conveyancers' indemnity and fidelity insurance costs, which have soared since the demise of the Law Society's Indemnity Fund. An intelligent electronic programme should prevent errors in stamp duty and fees and offer automatic prevention or detection of other errors and inconsistencies in the network of payments associated with completion.

The Report suggests that the Registry should explore with lenders, conveyancers, the Inland Revenue, the FSA and others the case for engaging a private sector consortium to operate on their joint behalf a clearing house and associated trust facility to operate a settlements system of this kind or some alternative model.

The Report suggests that, if these discussions confirm that some such system would be feasible and desirable, it might best be realised through a joint corporate vehicle representing lenders, conveyancers, the Inland Revenue and the Registry. The joint vehicle would contract with a private sector consortium to build and operate the system on their behalf.

The other stakeholders would in practice have a larger financial interest than the Registry. The Report suggests that the Registry's role would be to promote discussion and facilitate.

It would be for consideration whether a partial electronic settlement system could helpfully be introduced ahead of a comprehensive system and whether the system could also be used for settlement of search fees. (8.8 and Box 8.2)

Re-engineering of buying and selling processes

The Report suggests that re-engineering the house buying and selling market with the help of e-conveyancing and associated reforms has the potential greatly to improve national systems for buying and selling of properties.

The report discusses at length how the re-engineered systems might work and how they would deal with problems in the present systems. The accompanying Box 8.4 encapsulates the main points.

The Registry should, it suggests, play a major part along with others in preparing, modelling, evaluating, consulting on and refining possible models for a re-engineered market.

The re-engineered system should greatly reduce the delays in present processes and the resulting strains and stresses. It should be possible to reduce the interval between acceptance of offer and contract from the present average of about 8 weeks to a period more in line with other countries, perhaps about 3 weeks.

The interval between contract and completion would remain much as now.

There would, however, be no further delay between completion and registration. Completion would be

achieved through registration. (Boxes 8.4 and 8.5)

The new system and associated reforms should make chains of housing transactions more transparent, reduce search times, and remove the problems associated with registration after completion. They should help to reduce administrative burdens, risks, surprises, errors and costs. (8.12)

The main problem they would not address is the low incidence of house condition surveys among persons buying properties. The DETR's Seller's Pack initiative, however, will address that problem by obliging sellers to obtain a home condition report and make it available to buyers. In implementing this initiative, DETR are determined not to re-introduce delays that e-conveyancing and the associated reforms should be able to eliminate. (8.11)

A Joint Property Market Charter

The Report suggests that all the service providers concerned, in both public and private sectors, should work closely together to make the new system as good as possible for the ultimate customers (buyers, sellers and renters).

One way, it suggests, to focus such co-operation would be for the Government Ministers concerned and representatives of all the service providers to meet together in a Forum which would develop an agreed Property Market Charter, in the form of a Joint Statement of Service Targets and Standards.

The sooner such a Charter can be agreed, the better. The Registry would be well placed to join other Government Departments and

providers in the local authority and private sectors in helping to promote it.

The Joint Statement would preferably include a specific target to reduce the average delay between acceptance of offer and exchange of contracts on domestic properties from 8 weeks to around 3 weeks by a date to be determined. Supporting the Joint Statement, and annexed to it, would be specific statements of service standards by each of the main bodies concerned.

The proposed service standards would preferably be monitored by an independent outside source such as the Audit Commission. (8.13 and Box 8.6)

Structures

The Report suggests that any Forum of Government Departments and public and private sector service providers which is formed to oversee development of the suggested Property Market Charter might usefully continue to meet subsequently to review progress in delivering the Charter and the scope for setting ever higher standards of service.

Within the Government, a Steering Committee for e-conveyancing and related matters has already been set up under LCD Chairmanship, following discussions at an early stage of the present Review, as has also a Task Force led by the Land Registry. The Report suggests that the Steering Committee would preferably in due time take on a wider remit to oversee the national systems for property ownership and transactions as a whole (see further section 12 below).

Both the Steering Committee and the Task Force will need to meet regularly in a wider format with other service

providers, in the local authority and private sectors. (8.14)

Timetable

The Report suggests that it should be possible to complete e-conveyancing between January 2004 and January 2005 and the associated re-engineering of the house buying and selling market by the autumn of 2005. The Report includes a possible migration plan. (8.15 and Box 8.7)

9 Strategy: Land Charges Dept, Bankruptcy Index and Agricultural Credits

The Registry's Land Charges Department at Plymouth maintains a Register of charges against unregistered land other than first mortgages where the deeds are deposited with the lender. It takes the form of an Index of names of debtors whose properties which are the subject of such charges. Searches of this Index are running at about 1.3 million a year. (9.1)

The Charges Index is also, in effect, a national bankruptcy Index for England and Wales, including persons who own registered land or no land as well as unregistered land. It records against the person's name any bankruptcy petitions notified by the Courts and any bankruptcy orders which the Court has made (notified by the Official Receivers). Searches of the bankruptcy index are running at over 3 million a year. (9.2)

The Land Charges Department also maintains an Index of Proprietors' Names, listing all owners of registered property and charges against registered property. Only prescribed categories of searcher are permitted access to this Index. (9.3)

A separate Land Registry Bankruptcy Unit at Nottingham enters creditors' notices and bankruptcy inhibitions on the Land Registers for the properties of the debtors concerned. (9.4)

The Report suggests that the strategic objectives for the Land Charges Department's work on land charges should be to maintain an accurate and up to date Register of charges on unregistered land for as long as such a Register is needed, to manage efficiently the wind-down of the Land Charges Register as the Land Register approaches complete national coverage, and to consider whether and when the remaining entries on the Land Charges Register might be taken on to the Land Register. (9.7)

In the important area of bankruptcies, the Report suggests that the Registry and the Land Charges Department, the Insolvency Service and the Court Service need to deepen their co-operation. (9.8 and 9.17)

The main objective should be to ensure that between them they provide an accurate, complete and up to date national Index for England and Wales of persons who are the object of bankruptcy petitions and orders, readily accessible to all who need to consult it. (9.8)

The Report suggests that serious consideration should be given to transferring responsibility for the Bankruptcy Index to the Insolvency Service, which also now maintains a less searched Index including bankruptcy orders but not petitions. (9.9)

The Report suggests new policies and processes, to be pursued in co-operation with the Court and

Insolvency services, for improving the identification of debtors, minimising the number of incorrect attributions in the Land Registers, removing names from the Bankruptcy Index, preserving relevant documents in scanned form, removing or amending Land Registry entries, upgrading administrative processes, improving customer service through regular consultation with customers and strengthening governance. (9.10 to 9.19)

The Agricultural Credits Department records in a separate Register the existence of loans to farmers secured as second mortgages on land or on farming assets other than land. Registrations average about 8 to 10 per day and searches about 30 per day. Upkeep of the Register occupies the equivalent of one person's time.

The Report suggests that this is a worthwhile service. There is no need for the Land Registry to provide it. MAFF would arguably be a better home. Privatisation or outsourcing options could be explored. But any change would require changes in the Agricultural Credits legislation and a heavy input of management time. The Government is unlikely to wish to give priority to this. (9.20 to 9.22)

10 Strategy: adjudication, education, publication and advisory services

Adjudication Service

The Report commends the case for establishing a fully independent Land Registry Adjudication Service in perhaps eighteen months time or as soon as the proposed new Land Registration Act is in force and the Government has decided the way ahead on Sir Andrew Leggatt's Review of Tribunals.

In accordance with the statute, Land Registry staff provide an invaluable service in helping owners of land and property to settle disputes, especially boundary disputes and adverse possession cases.

Where agreement cannot be reached, the Solicitor to the Land Registry hears cases in the capacity of Adjudicator. Requests for such hearings are running at around 80 a year. About half are settled by agreement shortly beforehand.

The Report suggests that these are invaluable services which the Registry should continue to provide.

In principle however, the Solicitor and his deputies in the role of Adjudicator may face, or be perceived as facing, conflicts of interest. They give judgement in relation to systems and practices for which they themselves bear a major responsibility. The Government body they serve has an interest in limiting calls on the guarantee.

In practice, no such problems seem to have arisen. The Registry itself, moreover, has introduced new internal rules for a practical separation of roles.

The Report suggests, however, that it would be still better to separate the Solicitor's Adjudication function altogether from his other functions. The Solicitor himself shares this view.

The forthcoming Land Registration Bill could provide for the appointment of a separate Chief Land Adjudicator alongside the Chief Land Registrar and the Solicitor. The Chief Adjudicator and his or her staff (a small unit) would work on adjudication matters only and not on other Registry business.

The Report suggests that the Chief Land Adjudicator and his or her staff would best be located inside and financed by the Registry. This would be economic and convenient. More important, establishing the Unit outside the Registry would suggest that the Registry itself is not impartial. That would be both incorrect and damaging. (10.2 to 10.4)

Education service

An effective programme for education and training will be needed to accompany introduction of the new Land Registration Act, e-conveyancing and associated reforms. These reforms will transform the way in which Registry staff and outside practitioners do their business. The programme will need to reach both Registry staff and practitioners.

The Report suggests that the Registry should set up in good time a new Education and Training Unit. Headed by a Director of Education and Training Services, the Unit's first task would be to develop a programme to meet the forthcoming needs, both for staff and for practitioners outside. It would then co-ordinate and, in some cases, deliver the programme. It would work closely with the Task Forces for the new Bill and for e-conveyancing.

The Director of Education and Training would also have oversight of the Registry's other developmental training and work closely with those responsible for operational training.

The Registry already puts considerable resources into education and training programmes. Annual expenditure on training is nearly £12 million, around 7 per cent of the payroll. It should be

possible to deliver the new programme within a similar budget. (10.5)

Publications Unit and market transparency

The Report suggests that the Registry could make a decisive contribution to promoting transparent and well-functioning markets in land, property and mortgages, in accordance with the pillar 5 strategic objective.

The Registry could make fuller disclosure of financial details on the Register.

It could also, jointly with the Valuation Office and others, publish monthly much enhanced national, regional and district data on the property market.

The Report suggests accordingly that the Registry should set up a small Statistical Publications Unit to develop much improved and linked-up data, in close co-operation with the Valuation Office and in consultation with DETR, ONS, the FSA and others.

An Inter-Departmental Steering Group, such as the ONS's existing Committee on a House Prices Index, could helpfully provide guidance and advice (10.6)

Land Registry Advisory Services, LRAS

The Report suggests that the Registry could do much to help practitioners and the public in England and Wales, and Governments in certain other countries, by setting up a new Service, Land Registry Advisory Services (LRAS), to give advice and assistance in areas where Registry staff have special expertise and experience not readily available elsewhere.

The new Service would be in effect a subsidiary of the Land Registry. It would not form part of the Land Registry's core operations. It would be required to operate on a self-financing basis including a defined contribution to overheads.

A senior member of the Registry's staff would have full-time responsibility for oversight of the new Service and a remit to make a success of it. But the Directors and staff of the individual specialist units would mainly be former Registry staff (mostly part-time) with only a handful, at most, of existing staff.

The use of specially contracted part-time staff working on a consultancy basis would enable LRAS to deal effectively with peaks and troughs in demand and so minimise the risk of financial losses.

The main specialist Units within the LRAS might be as follows:

- an International Consultancy Unit.
- an Advisory Unit on specialist issues of registration and title
- a Title Plan Advice and Preparation Service
- an Advisory Unit for lay conveyancers in the e-age
- a Historical and Genealogical Research Service.

The Report discusses the roles of each of these Units at some length.

The Advisory Unit for lay-conveyancers would enable laymen who so wish to continue to do their own conveyancing without being obliged to employ private sector practitioners.

The Report suggests that a reasonable aim might be to launch the first three

Units by January 2002, and the fourth and fifth in January 2003.

The Units would be well placed to work in partnership with other public and private sector bodies. (10.7 to 10.13)

11 Governance: existing status and alternatives

In accordance with the Cabinet Office guidance, the Report considers the Registry's existing status and possible alternative structures for delivering its services.

The Registry is a Government Department under the Lord Chancellor. It is also an Executive Agency and a Trading Fund. (11.2)

The Report recommends that the Registry should remain within the public sector and retain its existing statuses. It discusses a range of options for abolition, privatisation and contracting out of the Registry's main functions. It recommends that they should all be rejected.

It notes that pursuit of any of these options would delay by several years the Government's objectives for new legislation and e-conveyancing and the strategic programme discussed in the Report. It would divert management effort from delivering these important objectives. In some cases, it would preclude their delivery altogether.

The Report suggests that *abolition* of the Registry and land registration services would risk undermining public confidence in the ownership of land and the charging of land as security for borrowing. It would be immensely damaging and unpopular. It would require highly contentious legislation. (11.3)

Privatisation of the Registry as a whole would involve similarly contentious legislation. The risks to public confidence in the ownership and charging of land, though less than with abolition, would still be considerable. Expensive private sector insurance would be needed to replace the Registry's guarantee of title. A privatised Registry could not be visibly impartial in the same way as a public sector body and would not therefore be able to discharge the Registry's present functions of resolving disputes over property. It would also be a private sector monopoly. The Government would need to make extensive arrangements for regulating its activities and safeguarding public data. (11.4)

The Report examines a range of particular difficulties and dilemmas that would arise from attempts to *privatise or contract out individual business units or core functions*. The Registry could not responsibly, it suggests, take on the risk of guaranteeing the work of other organisations. It could require contractors to meet indemnity claims resulting from their mistakes and to take out insurance policies to cover such claims. But this would be expensive. The scope for arguments about liability would be very great. In many cases, moreover, the claims resulting from mistakes made by contractors would not arise for many years. By that time the contractors might no longer exist. Data ownership would also be problematic. (11.6 and 11.7)

The Report notes that the Registry has gone out of its way in recent years to promote private sector partnerships and to contract out provision of particular services, especially but not exclusively

in the field of information technology. It has also conducted extensive programmes of benchmarking and market testing. The Registry fully intends, moreover, to form further partnerships wherever it is useful to do so, not least in the area of e-conveyancing.

The Report endorses this approach. (11.8)

12 Governance: relations with the Lord Chancellor's Department and others

The Report suggests that there is no need to contemplate re-allocating Ministerial responsibility for the Land Registry. Under successive Lord Chancellors, land registration in England and Wales has been a success story.

The Registry needs however to pursue Environment Ministry as well as Justice Ministry objectives. Its objectives need to include the promotion with others of transparent markets in land and property and world-class national systems for land and property transactions. (12.2)

The Report finds that the relations between the Registry and the Lord Chancellor's Department appear to work well. It will be important that the two Departments should continue to work as partners in an enterprise and keep their relationship in good repair.

The Registry's Agency Framework Document of January 1996 includes a useful statement of the respective roles of the Lord Chancellor, the Registry and the Lord Chancellor's Department. The Lord Chancellor's Department can also play a useful role in helping the Registry to be successful and get things done, not least through advice on the

wider Government and policy context. (12.3)

Relationships with the central Departments, though generally very good, have raised certain issues for consideration. The main problem has been overlapping central initiatives, especially on reviews, delegated pay and grading and financial regimes. (12.4)

The Report emphasises the importance of a coherent national strategy for the national land, property and mortgage markets and transaction systems. Many Departments and other bodies are involved. Good Inter-Departmental machinery will be needed, especially in the period of reforms that lies ahead.

At Ministerial level, a Group of Ministers of State has helpfully led work on the Seller's Pack. There has, however, been no machinery at Ministerial level to provide a wider strategic focus and co-ordination. The Report suggests that some such machinery could be valuable. The Ministerial body concerned might also meet outside stakeholders from time to time, possibly in the suggested Property Market Charter Forum.

At the official level, there are two inter-Departmental committees that cover part of the area.

An "Advisory Group", chaired by DETR and including representatives from the main outside stakeholders as well, reports to the Ministerial Group on the "Seller's Pack". This Group continues to provide a useful forum for discussion with the main stakeholders.

Second, there is an Inter-Departmental Steering Group on e-conveyancing, chaired by LCD. This Group will oversee the Land Registry's Task

Force on e-conveyancing. Both the Group and the Task Force were early outcomes from the present review.

These two Groups, between them, will do much to provide impetus and co-ordination. As noted in section 8, however, the Review suggests that it would be better still at some future point to have *one* Group with a wider remit to oversee strategy for the national property markets and to co-ordinate present and future initiatives. The Group could meet in a wider forum as well with outside stakeholders. (12.5 and 12 .6)

13 Governance: internal management structures and benchmarking

The Report suggests that, for the most part, the Registry's present management structure works well. It will be for the Chief Land Registrar and the Registry's Board to decide on any changes after discussion with those concerned. (13.1)

The Report does however include suggestions for a slightly revised structure, designed to accommodate the Report's proposals for new posts and a slightly revised Board and Committee structure.

The main new posts proposed are:

- a part-time Chief Adjudicator and adjudication unit,
- a Bill Task Force, Bill Team and Implementation Team,
- an e-Conveyancing Task Force (already established),
- a Unit to look after the Registry's interests in NLIS, NLPG and LR Direct,
- an Education and Training Director,

- A Director of Land Registry Advisory Services, LRAS, and
- A new Head of Statistical Services and a small supporting Unit.

The Report suggests that the Registry should set a firm target to accommodate the new posts without any net addition to central staff. (13.2)

Other suggestions for strengthening the management focus are:

- The *Deputy Chief Executive* (DCEO) would focus on developing the business rather than acting as line-manager for the Finance, Personnel and IT Directors. These three Directors, however, and the Strategy Director (see below) would all have an additional reporting line to him.
- A new *Strategy Director* post would subsume the existing Director of Communications post and take on added responsibilities for long term strategy and development of statistical services.
- The *Strategy Unit* itself would be expanded slightly from the divisions of the present Director of Communications to include two members of staff, possibly seconded from elsewhere, with experience of policy advice, preparing papers for Ministers, and getting things done in Whitehall. (13.3)

The Registry's Board and senior supporting committees would continue to function much as now but with the following changes:

- i. The Finance, Personnel, ICT and Strategy Directors would all be Associate Board members and would normally

attend Board meetings where their areas of business were under discussion

- ii. The DCEO, with his newly focused responsibilities, would Chair a Business Development Committee of senior officials and would act as the main link between the Board and the Committee. The Committee would be similar to, and replace, the present BDICT.
- iii. The new Task Forces on the Bill and e-conveyancing would meet as necessary under the Chairmanship of the Solicitor and the DCEO respectively. (13.4)

The Report suggests that the Registry should explore the possibility of benchmarking itself against two or three comparable organisations in other countries.

All the Registry's main individual divisions, similarly, should benchmark themselves on a continuing basis against comparable departments representing best practice outside.

14 Governance: private sector partnerships

Registry partnerships

The Registry has entered many important partnerships with private sector companies. The major contracts have been for computerisation of registers, scanning of files and title-plans, computerised mapping software, supply and upkeep of the Registry's distributed IT infrastructure and the provision of online search facilities through LR Direct. The Registry has also been involved in the major hub and channels contract for NLIS.

The Registry has gone to much trouble to negotiate the partnership agreements carefully and to manage them subsequently. The Report suggests that the Registry will do well to build up a stock of experience and expertise in these matters in-house, including some strengthening of legal and procurement capabilities, as well as buying in outside legal and contractual expertise. (14.2)

Looking ahead, the Registry is likely to engage private partners for various elements within e-conveyancing, notably e-lodgement of applications and e-certificates. (14.3)

Joint corporate vehicles

The Report suggests that, well-placed as the Registry has been to contract partnerships between itself and private sector suppliers, its inability to establish joint corporate vehicles has hindered it from joining with other public (or private) sector bodies in contracting such partnerships.

This has already proved to be a problem in relation to the NLIS contract. Similar problems could arise shortly in relation to an electronic settlements system.

The Registry might also find it helpful to set up corporate vehicles on its own account for purposes such as providing education, training and advisory services (LRAS).

The Report suggests that the proposed Land Registration Bill should preferably include powers for the Registry to set up corporate vehicles on its own account or with others, or to participate in such vehicles, wherever appropriate, for any purpose of land registration or related purposes. (14.4)

NLIS

The Report suggests that the governance arrangements for NLIS need to be reconsidered. The LGIH corporate vehicle which contracts NLIS is a local authority body. The body which contracts the national system of one-stop searches on behalf of the public sector providers of information should preferably, however, bring together representatives of the main central and local government bodies concerned, within a clear framework of responsibility, accountability and transparency.

A similar point arguably arises on the National Land and Property Gazetteer of national addresses, NLPG.

The Report suggests that the Registry should discuss and agree changes to the structure with the local authority bodies concerned.

A possible solution would be for LGIH to establish a joint corporate vehicle with the Registry, and possibly other Government bodies, for oversight of NLIS. Similar joint vehicles could in principle be established for other projects such as NLPG, on the principle of fitting the governance to the project. (14.4)

The Report discusses the form of a possible joint corporate vehicle with lenders, conveyancers and the Inland Revenue, for contracting an electronic settlements system. (14.4)

15 Legal services and central planning and communications

Legal services

The Registry employs about 160 lawyers. This is one of the largest

groups of lawyers in central government.

The Solicitor to the Land Registry has oversight of all the Registry's lawyers. The Lord Chancellor appoints the Solicitor as well as the Chief Land Registrar. The Solicitor and 12 further lawyers work at Headquarters. The rest work in the District Land Registries. Each District Registry has a District Land Registrar and a team of lawyers reporting to him or her.

The Land Registry depends heavily on its lawyers for the core functions of

- developing policy and practice on registration, including draft statutes and rules,
- dealing with complex or potentially contentious points on registration applications, with a view not least to avoiding future disputes,
- handling indemnity claims under the Registry's guarantee, and
- resolving and adjudicating disputes.

The Registry's lawyers have a high reputation for their expertise in land registration and related matters. They are widely respected as well for their impartiality in resolving disputes. Especially in this role, they act in an impartial and often in a quasi-judicial capacity. (15.2)

Many of the Registry's difficult cases involve payments of indemnity under the guarantee of title. The Registry stands ready to reach agreement as rapidly as possible in such cases and to pay indemnities on a "no-fault" basis. The policy is to proceed administratively, in inquisitorial rather than adversarial mode. The issue is simply whether the Register error has caused loss. The process is rapid and cheap compared with title insurance

systems involving private sector insurance and heavy legal costs.

The Registry's payments under the guarantee and indemnity scheme have always so far been remarkably low. The average annual amounts paid out over the past 10 years, net of recoveries, have been around £1.7 million on registered properties probably worth more than £1,500 billion. This is a tribute to the quality, skills, experience, care and attention of the Registry's staff, not least the lawyers. (15.3)

The Report includes several suggestions which would impact on the Registry's lawyers. These include establishing an independent Chief Adjudicator and Adjudication Unit, a Bill Task Force, Bill Team and Bill implementation Team, showing beneficial as well as legal ownership on the Register if the Government so decides, and publishing the Registry's main Practice Books on the Internet, in the interests of open government and transparency of administration. (15.4 to 15.5)

The Report suggests that the Registry's need to negotiate and supervise contracts is now so great that there may be a case for strengthening the in-house expertise in these areas as well as continuing to buy in advice from outside. (15.6)

It notes that the Practice Division's role in relation to developing e-lodgement of applications, e-certificates and the re-engineering of stamp duty collection will need to be redefined now that the e-conveyancing Task Force has been set up.

There may be a case for increasing the delegated authorities of District

Registry lawyers to settle indemnity claims.

Finally, the Report suggests that the Registry's legal divisions, like its other divisions, should benchmark themselves on a regular basis against comparable groups of lawyers outside with a view to spreading and absorbing best practice. (15.7)

Corporate Communications and Strategy

The Report sees the Registry's Corporate Communications and Strategy Group, consisting of eight staff headed by a Director of Communications, as successfully discharging a considerable range of important central functions with commendable economy. The Registry produces good planning and reporting documents and has developed good internal and external communications as well as launching a Web site with high potential.

The Report notes, however, that the Group will need to be strengthened as proposed in section 13 so as to play a more proactive role in co-ordinating implementation of the Registry's strategic programme, developing the collection and publication of much enhanced property market data and providing a strengthened Board secretariat function.

16 Operations, including management and performance targets

The Operations Units employ the vast majority of the Registry's staff, some 6,930 out of a total of around 7,800 full-time-equivalent staff excluding overtime. (16.2)

Regional network

Most of the Registry's work takes place in the 24 District Land Registries and other units located outside London. Only 4 per cent of the staff are now based in the London Headquarters.

The Report suggests that the Registry's District network has been a considerable success. The benefits have included having staff units of an optimal size (between 300 and 400), the ability to recruit more able staff, performance improvements through benchmarking throughout the network and handy units for piloting new processes.

The Report suggests that the Registry should plan to retain the present regional structure without major changes for the foreseeable future especially if the programme in this Report, involving limited change in staff numbers for the foreseeable future, is accepted. (16.3)

Workload and staff numbers

The Registry's caseload has risen sharply in recent years. Workloads peaked in the property boom of the late 1980s and fell back by 25 per cent in the subsequent recession. The Registry's staff numbers rose and fell to match.

Since 1992-93, the caseload has built up again. With the help of new processes and technologies, however, the Registry is now handling about 30 per cent more cases than at the height of the 1980s property boom with about 30 per cent fewer staff. The implied increase in staff productivity since the 1989 boom is of the order of 43 per cent.

The Registry projects that workloads will continue to rise with the growing number of households, the impact of new triggers for compulsory registration, voluntary first registrations, the continuing growth and turnover of the mortgage market and increasing public awareness of the information available from the Registry.

The Registry is well-placed to offset market variations by varying overtime and recruitment and by pacing the registration of properties owned by the large national landowners and Index Map vectorisation to offset market fluctuations. (16.4)

Reform programme: applications

Having embarked on computerisation in the late 1980s, the Registry set out in the mid-1990s on a major programme, based on benchmarking and the EFQMEM model, to transform working processes and customer service. The programme has enhanced quality, efficiency and value for money. The Registry will do well to continue the benchmarking programme.

With regard to substantive applications, previous processes consisted of around 20 sub-processes, involving around 12 staff specialised in particular aspects. The new systems of combined operations and small team working provide for a single member of staff to carry out all the processes in all but the most complex cases after an initial sift that captures the documentation on to the computer systems.

For new titles, the introduction of computerised mapping has reduced the time needed by an estimated 40 per

cent on average and by much more in some cases. (16.6)

There should still be scope for substantial further improvements in productivity as roll-out of the new systems is completed and the District Registries that perform less well raise their performance levels towards those of the highest performers.

The Registry has still to solve the problems of backlog and delay in relation to the more difficult applications involving new titles. In 1999-2000, rather less than 80 per cent of such applications were settled within 25 working days. The Director of Operations is determined to secure dramatic improvements in this area.

The Report suggests that the Registry needs to reduce the errors in applications received. The introduction of e-lodgement should eliminate most of them. In the meantime, the Registry might help to design conveyancer software packages or upgrades similar to those which will be used for e-lodgement. It might also extend its management information system to include a more reliable analysis of "standover" applications delayed by errors or omissions. (16.7)

Reform programme: searches

The Registry responds with remarkable speed to requests for searches, office copies and other preliminary services, where response times are often critical. The targets are to deliver 98 per cent of requests within two working days and 100 per cent within three working days.

The introduction of telephone and online searches has transformed the service in this area. The LR Direct service is now widely used and one-

stop NLIS searches will shortly be available.

The Registry is considering the case for extending online access hours to (say) 20 hours a day including Saturdays. Telephone access might also be extended by an hour or two at each end of the day, depending on the demand.

The charges for postal searches are already higher than for telephone and online searches so as to encourage switching and cost savings. The differential could be further increased. (16.8)

Customer service

The Registry has placed great emphasis since the early 1990s on improving customer service. It scores impressive results in annual independent customer surveys and has won Charter Mark awards on every occasion when it has had scope to do so. A recent review has identified still further areas for improvement.

The Report congratulates the Registry on what has been achieved. It notes that the Registry needs to listen carefully when users such as the Law Society voice specific concerns. Customer surveys may not cover all that is important. It suggests that the Registry's published briefings could be clearer, better focussed and more customer friendly.

The Report notes that the ultimate customers who own, lease or conduct transactions in land and property (and pay the fees) are no less important than the immediate professional users of Registry services who respond to customer surveys. The Registry should consider how best to assess the satisfaction of end-users.

The Registry may suffer some temporary reduction in customer survey ratings from the conveyancer population, as e-conveyancing and associated reforms are introduced. This, if it happens, would be understandable. It should not deflect the Registry from pursuing these reforms. (16.9)

Complaints procedures

The Report congratulates the Registry and the Independent Complaints Reviewer on the new complaints procedures, which are described at some length. An internal committee has recently identified scope for further improvements.

In 1999/2000, some 88% of complaints received were given a full response within the target period. The rate of complaint for the latest quarter was less than one per 1500 cases handled.

The Report notes that clearer explanatory material, available in the right places and at the right times, could help to reduce the number of complaints. The Registry's Practice Manuals could usefully include a section on complaints. (16.11)

Key performance indicators, KPIs

The Report notes that Key Performance Indicators need to be chosen so as to focus the business on what matters most. The Registry's present KPIs come close to meeting this criterion but might come still closer with certain amendments and additions, notably on costs per unit and progress towards e-conveyancing.

The KPIs presentation should preferably include information on fee levels, not as one of the shorter-term

performance measures, but as a memorandum item or items signalling the importance the Registry attaches to combining service improvements with keeping fees as low as practicable.

The KPIs presentation should include a five-year run of figures and a full facing page of Notes explaining the content and significance of each KPI, including the standardised output units used in measuring cost per unit. (16.12)

Stamp duty

The Report notes that the present arrangements for collecting stamp duty are far from ideal. The proposals for electronic settlements, if agreed, should solve the problems. The Inland Revenue is already helpfully seeking statutory approval for electronic interpretations of stamping. There may be scope for early rationalisation of the collection processes in ways that will smooth the path to electronic settlements. (16.13)

17 Financial strategies and structures

Business plans and efficiency measurement

The Registry's Business Plans are set out very clearly. The processes for developing the plans and obtaining approval seem to work smoothly. (17.4)

The Registry and the Treasury have together developed a convenient overall cost per unit calculation with a view to targeting and measuring productivity improvements. This is an invaluable tool of management.

The annual rate of efficiency improvement over the 6 years since

1994-95, measured by the reduction in the cost per unit in real terms, has averaged 3.8 per cent. (17.5 and Boxes 17.3 and 17.4)

Annual Report and Accounts

The Registry's Annual Report and Accounts are likewise presented in an exemplary way. The Registry won the tenth and final PricewaterhouseCoopers award for best Agency Report and Accounts for 1998-99. (17.6)

Accounting system

The Registry's present accounting system, though serviceable, is less helpful for business management than the Registry will need in the years ahead. The Registry has therefore invited tenders for a new business and accounting software system.

Deloitte and Touche were commissioned to review the suppliers' proposals. Their Report has confirmed that the systems offered would all meet the Registry's needs as defined. The Report emphasises the need for a business solution, not just a financial system, and recommends employment of an implementation partner. (17.7)

Payments

The Registry handles large volumes of payments in and out. Substantial efforts have been made to contain the costs of these transactions. The annual banking charges are £71,600 for payment in and £288 for payments out.

The collection of fee income is the main issue. The Registry has different systems for substantive applications and preliminary services.

For *substantive applications*, the Registry requires that most applications be accompanied by a cheque in payment. 2,840,858 cheques were received last year. The Registry has negotiated favourable handling arrangements with the banks. But the administrative costs for the Registry are substantial. Many cheques are made out for the wrong amounts. This further increases costs.

An electronic settlements system, if agreed, should solve these problems in the medium-term. In the shorter-term, the Registry should examine with the banks the scope for interim arrangements that would largely remove the need for cheques and the scope for errors, while also paving the way for electronic settlements. Such an arrangement might take the form of direct debiting by the Registry of deposit accounts established by practitioners.

For *searches and other preliminary services*, there is a system of credit accounts for practitioners. This spares the Registry from having to handle even more cheques. There remains, however, some risk of defaults. If the Registry can introduce direct debiting of fees for substantive applications, there may be scope for extending this system to searches as well. (17.8)

Fees

The Registry is obliged to finance its activities from fee income. The Land Registry Act 1925 and Fees Orders made under it provide a statutory framework for setting fees.

The Registry has reduced fee scales by 40 percent since 1993. The fixed fees for searches and other preliminary services are very modest, while the

variable fees for substantive applications range up to £800.

The Report discusses fee structures at some length. It concludes that the present structure is defensible, bearing in mind that no structure can be “perfect”. It could however be improved by reducing the fees for “dealings”, when practicable, spreading the cross-subsidy for first registrations across preliminary searches, currently very cheap, as well as dealings, and more differentiation of fees so as to encourage efficiency and cost-savings.

The new Land Registration Bill should explicitly provide more flexibility in setting fees. (17.9 and Box 17.5)

Indemnity Fund

The Registry has managed registration and the guarantees of ownership and charges with such skill that payments of indemnity, net of recoveries, have been minuscule (some £1.7 million annually over the past 10 years) in relation to the enormous value, possibly some £1,500 to £2,000 billion, of the properties registered.

The Registry faces nevertheless a small risk of having to pay out large sums as a result of some extensive fraud.

Although ultimately the Government stands behind the Registry, the Report suggests that it is far better that the Registry should pay such claims, if they should arise, from its own resources rather than have to ask Parliament for extra provision.

The Registry’s balance sheet includes an Indemnity Fund accordingly. At March 2000, the Fund stood at just over £4 million.

The Report suggests that a higher figure, pitched far above the highest annual pay-out of £5.1 million in recent years, would in principle be preferable. In practice, the Financial Reporting Standards used by the Registry, which are designed for normal trading companies, would not permit a significantly higher provision.

The Review suggests that there may be a case for basing the Registry's financial reporting, in part at least, on the principles of an insurance Statement of Recommended Practice (SORP) so as to permit a higher provision.

The Registry's contingent liability to pay indemnities argues in any case for retaining cash balances at a level far above what would otherwise have been necessary. (17.10)

Accumulation of reserves and Index Map vectorisation

The Registry has accumulated substantial reserves and cash. These have resulted from a combination of prudent budgeting and efficiency improvements.

It has been agreed in exchanges between the Lord Chancellor and the Treasury that the Registry will use some £20 million of the Reserves to vectorise the Index Map and repay any "excess" cash reserves to the Treasury.

In accounting terms, financing Index map vectorisation from reserves will entail running an overall loss over the next three years after payment of dividend. The presentation of this will need to emphasise the Registry's continuing intention to earn 6 per cent on capital in respect of its mainstream operations.

The amount of "excess" cash repaid will need to be considered carefully with the Registry's considerable needs for working capital and coverage of possible indemnity payments in mind as well as its earlier repayment of £54 million of originating debt. (17.11 and 17.12)

MOU on future financial regime

The Report suggests that the Registry and the Treasury should reach early agreement on a Memorandum of Understanding which sets out clearly what the future financial regime will be. This would avoid repetition of the protracted discussions that delayed the Index Map project for three years.

It suggests that the new regime might be built around five simple propositions:

- i. The Registry will continue to agree its business plans with the Treasury each year.
- ii. The Registry will in general aim to continue to finance capital expenditure and other development expenditure from current fee income.
- iii. The Treasury will consider sympathetically Registry requests to finance unforeseen humps in expenditure in-year to the extent necessary from profits retained in previous years where the sums do not exceed the dividend due.
- iv. The Treasury would not expect to look for offsetting changes in-year in the programmes of the Lord Chancellor's other Departments to match any variations in the Registry's

programmes within the narrow limits mentioned

- v. The Registry will maintain cash reserves at a level that can be expected amply to cover any likely indemnity payments so as to avoid having to ask Parliament for special funding in all save the most exceptional circumstances.

The Treasury have said that they will give early consideration to an MOU.

The new Land Registration Bill would need to permit the Registry to act in accordance with the suggested regime. No change would be needed in the Trading Fund regime. (17.13 and Appendix to Chapter 17)

Finance Division

The Registry's Finance Director oversees a Financial Controller and four finance sections containing 39 full time staff. The Division as a whole includes 9 qualified accountants.

The Review suggests that the Division should have an on-going arrangement for benchmarking its work against that of similar divisions in other organisations, both public and private sector. The Finance Director was proposing anyway to commission a Review of the Division. (17.14)

Internal Audit

The Registry has an effective Internal Audit team consisting of the Head of Internal Audit and 9 staff, all either qualified already in internal audit or in the process of obtaining qualifications. The Internal Audit Team has rightly given priority to helping the Registry to manage risks. The Team attends closely to processes where the risk of

fraud is significant. The Head of Internal Audit proposes to deepen the Team's expertise in the area of IT. (17.15)

18 Personnel strategies and structures

Good employer policies

The Registry has given high priority to the development of modern systems of personnel management and training.

By 1999, all the Registry's business units had individually achieved Investors in People accreditation. In March 2000 the organisation as a whole was awarded accreditation.

The Registry has an impressive range of "good employer" policies. It has an excellent record on management of sickness absence and provision of nurseries and play schemes. It has scored unusually well in the annual staff opinion surveys it has commissioned in the past three years. Relations between management and the Trade Unions have generally been constructive. (18.3)

Pay and grading structure

Within a total staff of around 7,800 full time equivalents, the Registry has only a small cadre of staff at Senior Civil Service levels: 7 at Headquarters and 24 District Land Registrars.

At working levels, the Registry condensed the multiplicity of technical support grades in 1995 into three new multi-skilled grades below Executive Officer level. This prepared the way for the new working processes. In 1998, a new grade of Senior Registration Executive (SRE) was introduced between the traditional SEO

and Grade 7 levels facilitating the development of Technical Teams.

In the course of these reforms, the Registry has deliberately increased the number of staff in the Registration Executive grades, especially the former HEO grade, while reducing the numbers at Registration Officer and Assistant grades, especially the former AA grade. Paybill per head rose by some 6 percentage points more than pay settlements between 1994-95 and 1999-2000. The second round of reforms will have widened the gap further.

The cost per unit estimates indicate that increased output per member of staff has more than offset additional salary costs. The returns from the reform programmes have still, moreover, to be harvested in full.

The strategy for e-conveyancing will further transform the tasks of Registry staff. The need will increasingly be for intelligent vetting and oversight of a substantially electronic system in which conveyancers will input the data. The grade structure may need to be rationalised further.

The Report suggests that the Registry will need to monitor changes in grading and paybill per head carefully alongside measurements of quality, cost per standardised unit and expenditure on IT. Such changes can only be justified, as they have been to date, if they deliver decisive improvements in the quality, efficiency and value for money of services, and preferably some reductions in fees as well.

Pay

The Registry's pay settlements since 1995 have been in line with other civil

service settlements. For all grades covered by the latest Inter-Departmental Survey, the Registry was in the second quartile or below. The Report suggests that the Registry is reasonably placed at this level. Posts advertised in the regions are on average around 10 times oversubscribed. Annual wastage is around 4 ¼ per cent.

The Registry pays extra allowances for staff based in central London, Harrow and Croydon but has resisted pressures to introduce further local allowances or discounts.

Overtime working, now running at around 5 per cent, is a significant element in the Registry's ability to manage workload. The present proportion of overtime seems justifiable. Looking ahead, the Registry's considerable ability to manage workload should enable it to continue with limited amounts of overtime. It will be important to guard against the development of an overtime culture and possible abuses associated with extended service hours.

Like other Government bodies, the Registry has been obliged to introduce performance related pay. For the year ahead, it will be required to introduce a new regime in accordance with Cabinet Office guidelines.

There is at present an annual bonus, Registry-wide, which has proved popular with staff.

Within the current year's pay rise of 4 ½ per cent, about half has gone to across the board cost of living increases. Between 1 ½ and 2 per cent has been used to give small performance increments through an equity share system based on staff appraisal box numbers and the

individual's position in the pay range. These increases enable staff to progress up the pay range for their grade. But the rate of progress is very slow and the amount of money left for other important issues is limited.

The Report suggests that this system risks demotivating more staff than it motivates. It is unlikely to contribute to business success. It is also complicated and expensive to administer, not least in terms of management time. The new arrangements now proposed by the central Departments are unlikely to solve the problem.

The Report suggests that performance related pay might preferably be uncoupled from the issue of progression and include

- an office-based bonus
- spot awards for particularly good work, and
- a limited number of annual excellence awards.

All elements would be non-consolidated. The second and third elements could be team-based or person-based, depending on the circumstances. (18.5)

Recruitment and promotion

For its legal advisers, the Registry recruits lawyers with a good grounding, and often considerable experience, in property law.

For other staff, the Registry does not have a "fast-stream" entry. It has reckoned to develop home-grown timber in the quantities needed to fill the more senior positions. It now recognises, however, the need to fill some senior posts through open competition so as to bring in fresh talent, experience and ideas.

The Report endorses this policy but argues for going further. The Registry should plan to recruit a small number of staff of high quality from elsewhere, on limited secondments, to assist in important tasks where Registry staff have little experience such as getting things done in Whitehall and bringing economics and statistics into the Registry's business. The Registry has introduced a "Focus" Scheme to help develop home-grown talent.

The Registry has a high quality recruitment process. In most parts of the country, candidates of good calibre are found. But the process is slow. Inflexibility in the grading structure makes recruitment of specialists difficult.

The procedures for promotions are similar to those for recruitment. There is a case for recruiting more staff at SRE/SEO level from outside while also strengthening internal development training programmes. (18.6)

Training

The Registry's total spend on training is high, at some 7 per cent of payroll or £11.8 million. Training is divided between technical training in the District Registries (about 80 per cent of the total), and general and developmental training (about 20 per cent).

The high level of spend on training contrasts with the underspend that bedevils many organisations. The technical training, the new Land Registry Qualification, at lower degree level, and senior management training seem all to be successful.

The Report suggests that the proposed new Director of Education and Training should launch a special programme of education and training in the new land registration legislation and e-conveyancing, for the Registry's partners and customers as well as for staff. He or she should also take charge of non-technical training and hold a watching brief on technical training.

Staff training in the new legislation and e-conveyancing should be accommodated *within* the present training provision. These should be the main elements in training programmes from next year.

The Report notes that only 17 per cent of personnel staff have qualifications in personnel management. (18.7)

Staff mobility

The Registry has some difficulty in persuading staff to move from one Registry location to another and above all to London.

The solution may lie partly in a willingness to be more flexible about pay packages. The new electronic technologies have increased the scope for staff to perform central functions without being permanently based at the London Headquarters. The staff concerned must, however, be willing to travel to London as often as needed.

The Registry should not move its Headquarters from Lincoln's Inn Fields. The benefits of being close to the Lord Chancellor's Office, the rest of Whitehall and the main practitioner groups are very great. (18.8)

Diversity

The Registry has developed its approach to diversity in line with

Government policies. Two issues for continuing review are the levels of the diversity targets for women, ethnic minority and disabled staff and whether enough women are reaching senior positions. (18.9)

Governance

The Report suggests that the Personnel Director of a people-based business should be responsible to the Chief Executive for all aspects of pay and personnel. With the possible exception of facilities management, he or she should not be responsible for other things as well. The proposals on management structure in section 13 indicate how this might be achieved. (18.10)

Size of personnel service

The Registry employs about 279 staff who work on personnel, pay and training, at a cost of some £5.1 million a year. Some 92 of them work at Headquarters.

The ratio of personnel staff to total staff is very high, at one per 35. A more normal ratio, for an organisation of this size, would be one per 80 to 95. Differences of definition, and differing amounts of outsourcing, may distort such comparisons. But the extent of the difference is striking.

The Report suggests that the Registry should commission an early and thorough review of its personnel services. The two main components would be a careful benchmarking exercise against best practice elsewhere, including two or three comparably sized and structured organisations in the public and private sectors, and examination of the scope for re-engineering the pay and personnel functions.

Some options worth exploring are reducing the central divisions, giving more authority to the District Registries, outsourcing staff-intensive routine functions such as payroll and pensions, simplification of pay, hours and other rules, streamlining of recruitment procedures and reducing the number of senior full-time training staff in every District Registry. (18.11)

Facilities divisions

The Registry has brought together provision of all physical resources to support the Registry's operations, except IT, under a Director of Facilities.

The Director of Facilities oversees three central divisions dealing with Agency Estates, Purchasing and Facilities and Business Continuity. These Divisions employ 60 staff and oversee expenditure of some £40 million a year

Each of the District Registries employs a Facilities Manager, around 11 staff on facilities other than IT and 3 staff on local IT systems in partnership with Compaq.

The Director of Facilities has co-ordinated and overseen a large programme of review and procurement projects under the BQS initiative.

The Report endorses the Registry's decision to retain in-house strategic oversight of facilities management. It notes that there may be a case for placing management of telecommunications alongside management of IT services. (18.12)

19 Information systems strategies and structures

Broad approach

The Registry's broad approach to information strategy has been to develop and maintain a substantial in-house capability including design of applications, procurement, training and implementation, while engaging private sector partners and contractors in many areas, especially for the delivery of IT and scanning services.

The Report suggests that this approach has been right and congratulates the Registry for having pursued it.

The Registry still reckons to do in-house much of the work of developing new applications. LR Direct and NLIS both fell into this category. For e-conveyancing, too, the Registry proposes to do much of the development work in-house. For delivery of programmes, on the other hand, the Registry has made, and continues to make, extensive use of private sector partners.

The Registry has been scrupulous in following CCTA guidance and other principles of good practice in its approach to IT strategy and procurement. Some particular strengths have been the appointment of senior Directors as "owners" of main programmes, extensive testing and piloting of individual projects before roll-out, well-considered training programmes to accompany roll-out, and extensive use of the Prince 2 methodology for project management and procurements.

Another major strength, since the mid-1990s, has been the Registry's on-going two-yearly benchmarking cycle against IT Services departments of

other leading institutions, both public and private sector. (19.2)

Structures

The Registry's Director of Information Systems oversees around 275 staff in four divisions with a staff budget for 2000-01 of around £7.9 million.

The four divisions are responsible for IT development, IT services, IT management and procurement, and Computer implementation and development, respectively. The first three divisions are at Plymouth. The fourth is at Headquarters.

The Plymouth location has proved advantageous. The Registry has been notably successful in recruiting and retaining IT staff to work there. Wastage is only around 3 per cent a year.

A recent Logica Report recommended that the Registry should increase staff by about 120 over the next five or six years, mostly in the area of database development but also including an extra 20 staff to work on e-conveyancing. (19.3)

Private sector partnerships

The Registry has formed partnerships or let important contracts in the four main areas of computerisation and scanning, computer mapping, interface with customers and internal systems.

A succession of important projects for register computerisation and scanning of plans and documents will largely dispense with the need for staff to access physical documents. The computerised mapping project will likewise be crucial in enabling the Registry to introduce combined operations working.

The projects for interface with customers include the contract with Global Crossing to provide the customer interface for online searches through *LR Direct* and the contract by the Local Government Information House (LGIH) with MacDonald Dettwiler to supply and operate the hub for a *National Land Information Service* and Channel providers.

The projects for improving internal working systems and productivity (internal services) have included a contract with Compaq for supply and upkeep of the Registry's new distributed IT infrastructure of wide and local area networks, servers, PCs and peripheral equipment, and a project for computerisation of Practice Books which will enable staff to bring "knowledge" to the screen.

These are only the most important of the projects which have included an element of private sector partnership.

The Registry is considering the scope for engaging or promoting further private sector partnerships in several further areas, including the building and operation of systems to enable e-lodgement of applications and electronic settlements. (19.4)

Databases

Mainly as a result of the scanning programmes, the Registry now has six main electronic databases, holding 10.5 terabytes of data, held on a mainframe computer and which is mirrored in real time off-site to a second computer centre. (19.5)

Information strategy and ICT strategy

The Report suggests that the ten-year strategic programme for the Registry as a whole discussed in the present

Report, if accepted, should be the starting point for the Registry's information strategy. The essence of strategy would then be

- to develop and deploy in good time the high quality information systems needed to enable successful delivery of the strategic programme, and
- to do so through a continuing judicious mixture of in-house capabilities, partnerships with the private sector, and the range of good practices already in place, including the on-going benchmarking programme.

The strategy should preferably extend over five years and be rolled forward each year.

The Board might also find it helpful to assign individual Board members to act as Manager for each of three or four broad themes, including external service delivery, internal service delivery, governance of IS and ICT, and information management, including data ownership and standards. (19.6)

Recruitment and retention of skilled staff

The success of any IS or ICT Department depends on the skills and experience of its staff. The Report suggests that the Registry needs to find ways of nurturing and rewarding staff with a special creative flair without diverting them into more routine management tasks. (19.7)

Procurement and contract management experience

The procurement and subsequent management of large contracts,

especially in the ICT field, have likewise become critical elements in the success or otherwise of public sector businesses. The Registry is no exception.

The Report suggests that the Registry will need to give priority to ensuring that the considerable experience that some of its staff have in this field, and the experience they gain in the future, will be widely shared with others involved in the awarding and management of contracts, both on the ICT side and elsewhere.

The Director of Information Systems, and the Director of Facilities might usefully convene a Procurement and Contract Management Forum once every couple of months with a view to sharing experience, ensuring that it is well documented, reviewing results from benchmark activities, and absorbing the latest thinking circulated by the good practice standard setters.

The Report lists some points especially to be watched, including:

- ownership of programmes by operational divisions
- contract strategies and the realities of risk transfer
- requirements at the procurement stage
- the continuing need to keep others in touch with progress
- the need for continuity of staff up to, and often beyond, contract signature
- requirements at the implementation stage. (19.7)

20 Better Quality Services

The Registry has made good use of the EFQMEM framework in its approach to business planning and management.

It has carried out and continues to carry out a major programme of reviews and projects, some under the banner of Better Quality Services (BQS) and others alongside.

Especially in the operations and IT areas, which between them account for the vast majority of the Registry's staff, the Registry has benchmarked many of its processes and activities against good practice elsewhere, in both public and private sectors.

Recent projects have covered, or are covering, pensions management, accounting systems, IT services and filing of documents. (20.2)

In addition to the major partnerships mentioned in section 19, the Registry has contracted out many smaller tasks in the fields of personnel, facilities training, estates management, telephony, stationery, postal services, security and cleaning. (20.3)

The present Review has been concerned throughout with improving the quality, range and value for money of the services the Registry provides.

The vast majority of the strategic programmes discussed are concerned with providing ever better public services and value for money.

Examples are:

- completion and extension of the Register
- NLIS and LR Direct
- e-conveyancing
- Electronic Settlements at completion
- a Joint Property Market Charter
- an independent Adjudication Service
- development of published statistics to enhance market transparency

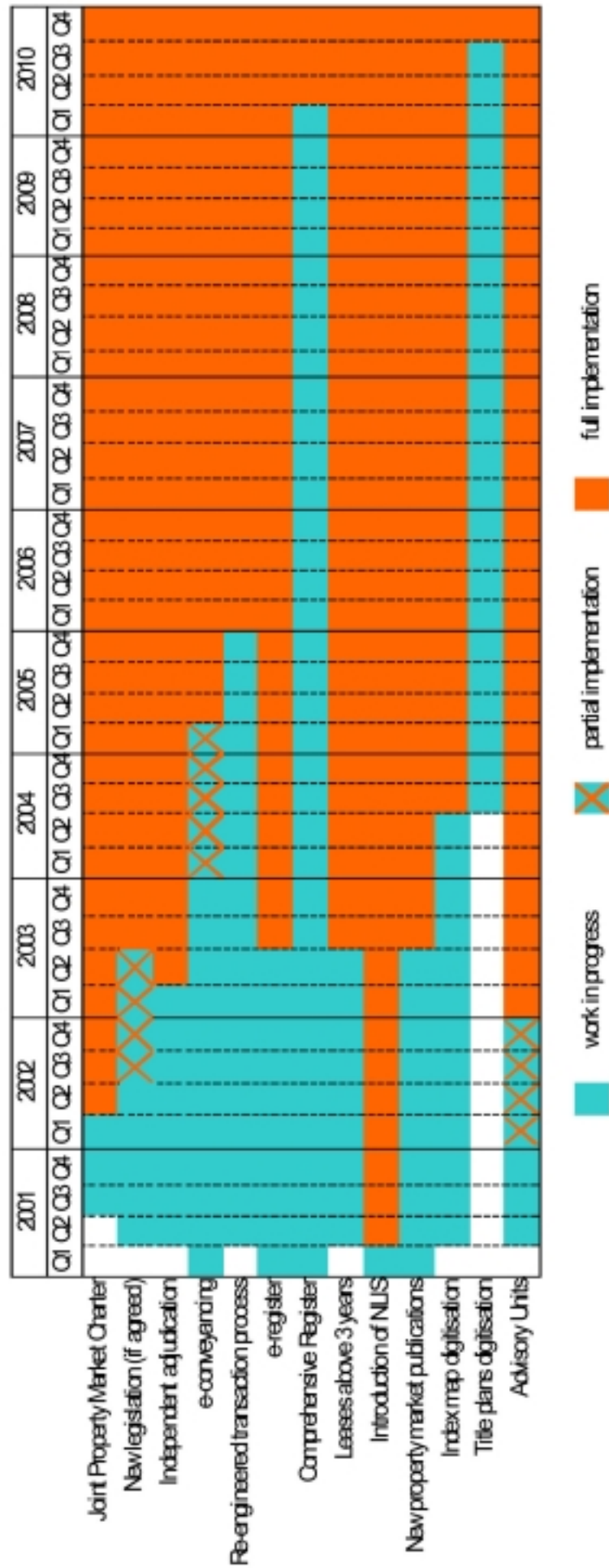
- establishment of Land Registry Advisory Services.

The Review has also identified many specific areas for further specific reviews or projects. These include

- periodic benchmarking reviews of the Legal, Finance and Personnel Departments as well as the Operations and IT Departments
- examination of payment systems ahead of the proposed electronic settlements system
- contracting out of paybill management
- placing responsibility for telecommunications alongside IT
- call-off contracts with IT firms for help with design issues and peakload problems
- provision of coloured title plans or index maps and
- a facility for overlaying the general boundaries grid on aerial photographs.

Whether any or all of these projects should form part of the BQS programme or be conducted alongside is for others to say. (20.3)

CHART
A SUGGESTED TIMETABLE FOR THE STRATEGIC PROGRAMME



HOUSE PURCHASE SYSTEMS IN ENGLAND & WALES:
Comparison of present model with e-conveyancing model

PRESENT MODEL

E-CONVEYANCING MODEL

Stage 1: Marketing

- | | |
|--|--|
| (a) Estate Agent advertises property for sale through traditional channels | (a) As now. But Estate Agent advertises on NLIS Bulletin Board as well that property is for sale |
| | (b) Estate Agent gives would-be buyers a copy of the official Seller's Pack survey (if any) |

Stage 2: Handshake (provisional agreement on terms of sale)

- | | |
|---|--|
| (a) Buyer makes offer subject to contract. Seller accepts | (a) As now |
| (b) Estate Agent notifies buyer's and seller's conveyancers | (b) Estate Agent notifies conveyancers as now but online and with e-copy to LR |

Stage 3: Between Handshake and Contract

- | | |
|---|--|
| (a) Buyer's conveyancer makes manifold searches | (a) Buyer's solicitor makes single comprehensive search through NLIS and / or LR Direct |
| (b) Buyer may commission survey | (b) Buyer commissions survey only if not satisfied with official survey |
| (c) Buyer arranges mortgage finance | (c) Buyer arranges mortgage finance, possibly online and based on previous "in principle" offer |
| (d) Buyer's and sellers' conveyancers, in extensive multilateral telephoning with others in Chain of interlinked transactions, agree on completion date | (d) With help from LR on who the others in the Chain are and the state of their transactions, buyer's and seller's conveyancers agree on completion date |
| | (e) Buyer's conveyancer clears new Registry entry in draft with LR |

Stage 4: Contract

- | | |
|---------------------------|--|
| (a) Exchange of contracts | (a) e-equivalent of exchange of contracts, based on e-signatures and authentication of conveyancers, POAs from clients, and notification of LR and e-settlement authority by buyer's and seller's conveyancers and lenders |
| | (b) LR freezes Register until date of completion and makes provisional new Register entry in red and (or for 30 days if not fixed) |
| | (c) e-settlements authority holds provisional disbursements list on screen in red |

Stage 5: Between Contract and Completion

- | | |
|--|---|
| (a) Buyer's conveyancer launches pre-completion searches with LR so as to obtain priority [for 30 days] over others seeking to change the Register | (a) <i>[LR's automatic freezing of Register, at stage 4 (c), would remove the need for a further round of searches and priority period]</i> |
|--|---|

Stage 6: Completion

- | | |
|---|--|
| (a) Seller signs Deed of conveyance to give effect to change of ownership | (a) After online notification by seller's and buyer's conveyancers, LR gives effect to change of ownership through permanent change in Register entry <i>[No need for Deeds of Transfer or Conveyance]</i> |
| (b) Multiple cheques from and to various sources with help of conveyancers' client accounts | (b) All financial obligations, inc stamp duty, settled through simultaneous electronic settlement <i>[Online applications programmes would ensure correct amounts of Stamp Duty &, LR fees]</i> |

Stage 7: Post-Completion

- | | |
|---|---|
| (a) Buyer's conveyancer applies to LR for registration of buyer on Register | (a) <i>[No further action needed except possibly for first registrations]</i> |
| (b) Stamp Duty paid. Errors sorted out. | |
| (c) LR and conveyancers work on any title or other problems | |
| (d) LR changes Register | |

1. INTRODUCTION

1.1 The Review

The Lord Chancellor invited me at the beginning of September 2000 to conduct a Quinquennial Review of Her Majesty's Land Registry. The terms of reference are at Annex A.

In accordance with the terms of reference, the Review has looked at Better Quality Services elements, where appropriate, as well as the normal Quinquennial agenda.

The Lord Chancellor also set up an Inter-Departmental Steering Committee, chaired by the Lord Chancellor's Department, to oversee the Review. The Committee's Chairman and members are listed at Box 1.1.

The Government's practice is to commission regular, mostly five-yearly, reviews of all Government Agencies. The Land Registry has been reviewed twice before. A Review in 1988 recommended that the Land Registry should combine its status as a Government Department with Executive Agency status. A Review in 1995 recommended retention of Agency status.

1.2 Broad approach

The present Review has followed the new guidance on reviews of Government bodies published by the Cabinet Office in January 2000 and the related guidance on Better Quality Services reviews. In particular:

- The Review Team has considered carefully how the Land Registry can best deliver high quality, responsive and well-integrated services, covering both the Quinquennial Review and Better Quality Services agendas, with special emphases on continuing improvement, electronic delivery and process re-engineering.
- The Review has assessed the traditional status or organisational options for ceasing to deliver the services or privatising them or contracting them out.
- The Steering Committee has included representatives from LCD, DETR, Cabinet Office and Treasury as well as the Chief Land Registrar.
- The Review Team has included members of the Land Registry's own staff, both present and past.
- The Team has conducted its work in the closest consultation with the Land Registry itself.
- The Team has consulted extensively with other stakeholders, in both public and private sectors.

With the encouragement of the Cabinet Office, the Lord Chancellor's Department and the Land Registry itself, and within the spirit of the new guidelines, we have departed in two respects from the traditional drill for such reviews.

First, this Quinquennial Review is more fundamental than most. It is quite different from the two previous such reviews of the Land Registry.

With colleagues on the Review Team, Registry staff and others outside the Registry, not least the Steering Committee and representatives of practitioners outside, I have devoted much effort to considering

- what the fundamental strategies on land registration should be for the next 10 years, bearing in mind all that has been done so far, all that remains to be done, and the new opportunities offered by the e-revolution; and
- how the Registry should develop its role, not least in helping to promote better national systems for buying and selling houses, more transparent markets, and enhanced service to customers, including disputes resolution.

In my opinion these are the most important and urgent issues. Especially at the beginning of a new century, it seemed right to address them and to help the Registry in formulating a specific strategy with clear milestones for the next 10 years.

Second, it did not seem right to prepare a separate First Report on organisational options for delivery of land registration strategies and services *before* considering what the strategies and services should be. Important as questions of status, structures and organisation undoubtedly are, they seemed to me in this instance to be the second main item of agenda rather than the first. This, therefore, is the order in which I considered them.

I am grateful to the Cabinet Office and other Departments for agreeing to waive the requirement for a First Report on traditional lines. For what it is worth, I suspect that a similar waiver may be desirable in many other reviews as well.

1.3 Conduct of the Review

The Steering Committee met five times in the course of the Review. The meetings helpfully identified many points for consideration. I am grateful to the Chairman, Joan MacNaughton, the other members and the secretaries.

The Review Team included five further members from outside as well as myself. The list is at Box 1.2. The Land Registry kindly permitted me to recruit these other members to look at particular areas of importance where special expertise and experience were needed. John Manthorpe devoted about six weeks to the Review; the others, about ten days each.

John Manthorpe, formerly Chief Land Registrar, put his unrivalled knowledge, experience and enthusiasm at my disposal from beginning to end. He could not have been more generous, helpful or supportive. I cannot thank him enough.

Mike Morris gave me invaluable advice on pay and personnel matters. Guy Sears did likewise on bankruptcy and agricultural credits. To them too I am deeply indebted.

David Cronin advised helpfully on the application of CCTA's interpretations of good practice in information strategy. A small Team from Deloitte and Touche assessed the Land Registry's proposed new accounting systems.

Within the Land Registry, Ann Jalili provided invaluable support as my full-time assistant. She was indefatigable in organising the Review programme, explaining the finer points of land registration, assembling information, correcting texts and preparing illustrations. Her too I cannot thank enough.

Other staff throughout the Land Registry gave unstintingly of their time and expertise. I wish particularly to thank Peter Collis, Chief Land Registrar, for his unfailing enthusiasm, support and encouragement. The Registry's Board Members and other senior staff likewise went out of their way to be helpful, as indeed did the more junior staff whom I met and the DTUS.

Outside the Land Registry, other stakeholders in Central and Local Government were likewise generous in the help and time they put at our disposal, as were the representatives of other stakeholders who join the Land Registry in providing services to those who conduct transactions in the land and property markets. A list of those consulted or visited is at Annex B.

Finally, we gained invaluable insights from a visit to the Canadian provinces of Ontario and British Columbia and from the Chief Land Registrar's impressions from a visit to Australia. We also had the benefit of access to valuable recent material from the United Nations Economic Commission for Europe, and from individual countries, on land registration systems elsewhere.

BOX 1.1
 HM LAND REGISTRY QUINQUENNIAL REVIEW INTER-DEPARTMENTAL
 STEERING COMMITTEE

Joan MacNaughton	Lord Chancellor's Department	Steering Group Chair
Alan Cogbill	Lord Chancellor's Department	
Peter Collis	HM Land Registry	
Jim Duncan	HM Treasury	
Andrew Edwards	Reviewer	
Mike Gahagan	Department of the Environment, Transport and the Regions	
Peter Hawthorne	Cabinet Office	
David Nooney	Lord Chancellor's Department	
Nicola Webster	Lord Chancellor's Department	
Jo Taylor	Lord Chancellor's Department	Steering Group joint secretary
Ann Jalili	HM Land Registry	Steering Group joint secretary

BOX 1.2
 HM LAND REGISTRY QUINQUENNIAL REVIEW TEAM

Andrew Edwards	Reviewer
David Cronin	IT Systems
Deloitte and Touche	Accounting System
Ann Jalili	HM Land Registry
John Manthorpe	Former Chief Land Registrar
Mike Morris	Personnel Issues
Guy Sears	Bankruptcy and Agricultural Credits

2 LAND REGISTRATION SO FAR *

2.1 Introduction

This Chapter sketches the role and evolution of land registration in England and Wales and the Land Registry. It includes some discussion of the position now reached.

2.2 The 19th Century

Up to a century and a half ago, ownership of land and property in England and Wales was often a hazardous business. Proof of ownership depended on Deeds kept by the owner or his legal adviser. Purchases and sales depended on archaic and expensive systems of private conveyancing.

Between 1535 and 1832, Parliament considered or enacted 26 Bills on land registration. It was not until the 19th Century, however, with the Royal Commissions of 1830, 1850 and 1857, that serious attempts at reform were made.

Before 1862, when the first Land Registry Act became law and Her Majesty's Land Registry was established, there were no systems of land registration in England and Wales apart from deeds registries in two counties, Yorkshire and Middlesex. Systems of land tenure continued in many respects to be feudal.

The social and economic reformers of the 19th Century responded to these problems by trying to promote effective systems of land and property transfer and the introduction of public registers of land ownership. Their specific aims were:

- to foster private ownership by establishing a public land register of titles guaranteed by the State,
- to simplify and reduce the cost of land and property transfer by standardising procedures,
- to promote the development of a mortgage market, and
- to encourage land and property development and use.

The first Land Registry Act of 1862 was a failure. This was partly because registration was voluntary but mainly because the law demanded a degree of accuracy on boundaries and proven rights which was difficult to achieve without great cost. The process of registering titles generated more problems between neighbours than it solved.

Successive Laws in the late 19th Century sought to remedy the defects. The Land Transfer Act of 1875 established the concept of registration with 'general boundaries'. The Land Transfer Act of 1897 introduced the requirement that the Ordnance Survey Map would become the basis of registered mapping. Two years later, compulsory registration of title on sale was first introduced, in parts of the old County of London.

* This Chapter draws heavily on material supplied by John Manthorpe, to whom I am much indebted.

These developments, compulsory registration on sale and registered mapping based on the Ordnance Survey map with general boundaries, are the cornerstones on which the land registration system in England and Wales has been built.

2.3 The 20th Century

It was, however, the historic land law reforms of 1925, initiated by Lord Chancellor Birkenhead and therefore known as the '*Birkenhead Statutes*', that provided the statutory basis of the present day system.

At that time the dreams of the Victorian reformers remained largely unfulfilled. Only 14% of the population owned property. The great majority lived in rented or tied houses or flats. The banking and mortgage systems were underdeveloped and beyond the reach of most people.

The Land Registration Act of 1925 gave the Chief Land Registrar powers

- to grant secure and guaranteed marketable titles through registration in the Land Register
- to amend or rectify the Register, subject only to appeal to the High Court, and
- to pay indemnity in a wider range of cases to persons suffering loss as a result of any error or omission in the Register.

Other relevant and important statutes were the Law of Property Act 1925 and the Land Charges Act 1972.

Under successive Statutory Orders over the course of the century, compulsory registration on sale was extended area by area to the whole of England and Wales. The principle first introduced in 1899 finally became universal in 1990. The Register of guaranteed titles in England and Wales has therefore mostly been built title by title as transactions have taken place.

Under the Land Registration Act 1997 compulsory registration was extended from just sales to most changes of ownership (such as gift or inheritance) and also to unregistered land subject to a first mortgage.

The Land Register now comprises nearly 18 million separate titles and approaching 100 million separately registered interests.

In earlier times Register entries were not accessible to the general public but only to those with a need to know. Under the Land Registration Act 1988, however, the Register became open to public inspection.

From 1st April 2000 the 'price paid' on purchase has been recorded on the Register as new ownerships are registered. This information is now, therefore, in the public domain. The Land Registry publishes authoritative statistics every quarter on residential property prices in England and Wales by property type and local authority area.

In the last twenty years computerisation has transformed internal working practices and systems. At the time of writing, over 96% of all Registers are computerised. Direct access by outside practitioners to the computerised Registers is commonplace.

2.4 The Land Registry

First established as a Government Department in 1862, HM Land Registry has since 1928 comprised three sub-Departments, each established under separate legislation:

- the Registration of Title Department,
- the Land Charges Department, and
- the Agricultural Credits Department.

The Registration of Title Department accounts for the bulk of the Land Registry's work and employs over 98% of the total full-time-equivalent staff (excluding overtime) of some 7,800. The Report is mainly concerned with the work of this Department. Chapter 9, however, considers in some depth the work of the other two Departments.

The Chief Land Registrar, who heads the Department, is a statutory office holder with judicial powers appointed by and directly accountable to the Lord Chancellor. He and his staff, rather than the Courts, determine the great majority of all issues and disputes relating to land rights.

The Land Registry has a headquarters in London and 24 regional offices (District Land Registries) throughout England and Wales. Each of these regional offices serves a defined geographical area comprising a number of local authority areas.

Until 1955 the Land Registry was wholly based in London. Now, through successive dispersal programmes, less than 4% of the staff are based in London.

Each District Land Registry is headed by a District Land Registrar who is required under the provisions of the Land Registrations Act to be a lawyer. He or she has extensive quasi-judicial powers under the law to grant title and to resolve disputes.

Each District Registry is now managed by an Area Manager who is responsible for finance, personnel, production, and meeting operational and financial targets. On average each office serves a population of 2 million.

2.5 Registration of Title Department: Guarantees and Indemnities

In accordance with the Land Registration Act 1925, the State guarantees through the Land Registry the ownership of titles to land and property. The State's guarantee, and its associated willingness to rectify or pay indemnities, lie at the heart of the Registration system.

If any persons consider that they have suffered actual loss as a result of an error or omission on the register, they are entitled to apply for rectification of the title and/or indemnity.

Rectification or indemnity can be effected even if the error or omission has not arisen as a result of a mistake by the Land Registry. If the Land Registry unwittingly registers an interest which turns out to be incorrect or fraudulent, anyone who has suffered loss as a result of registration can be indemnified.

The Registry's policy has been to process and meet claims for indemnity with as much speed and as little fuss as possible and to seek redress subsequently from others where others have been responsible. The Registry has powers to seek recovery of any indemnity paid and any costs from persons guilty of fraud.

Indemnity payments take account of the extent to which a person has contributed to any loss by their carelessness.

Citizens are free to appeal to the High Court if they wish to challenge the decision of the Registrar. This is very rare.

2.6 Registration of Title Department: Volume of business

The Registration of Title Department's volume of business is very large. The work can be divided into two broad categories:

- i. transactions which create, change or cancel entries on the Register, and
- ii. searches and information enquiries

The first category includes registration of new titles, sales of property, associated mortgages, discharges and many other legal interests in land affecting owners or third parties.

Currently, applications for such registrations are running at around 14,000 per day or around 3 ½ million a year. This category of work accounts for some 75% of the total working time of the Registry's operational staff.

The second category consists mainly of searches and enquiries by (or on behalf of) persons contemplating buying land or lending money on land. Under the English system the issue of a guaranteed official certificate of search also gives the applicant 'priority' for 30 working days ahead of any other transaction that may arise on the land in question. Others, too, however, may search the Register. Examples are tenants, neighbours, family members, creditors, law enforcement agencies, central and local government and other official bodies.

Searches and enquiries of all kinds are currently running at around 15 million for the 2000-01 financial year. This category of work accounts for some 25% of the total working time of the Registry's operational staff.

The table in Box 2.1, based on data for 1999-2000, gives some impression of the

magnitudes of the Registry's business. The tables in Boxes 2.2 and 2.3 chart the Registry's business over last decade. Chapter 4 discusses the magnitudes in terms of staff numbers, past present and future.

2.7 The Land Charges Department

The Land Charges Department provides an important service to conveyancers, financial institutions and others in relation to unregistered land and bankruptcy.

The Department was established by the Land Charges Act 1925. A counterpart to the Land Registration Act of that year, this Act went some way to protect purchasers of unregistered land and persons with charges over such land.

The governing legislation is now the Land Charges Act of 1972 which replaced the earlier 1925 Act as amended.

The 1972 Act enables those who have the benefit of a covenant or some other charge against land to protect their interest, even if the land is unregistered, by registering the charge at the Land Charges Department. Such registration gives 'notice to the world'.

In contrast with the Register of Title for registered land, the Land Charges Register is based on a names index. A name search by an intending purchaser or other person or body with an interest in land will reveal if any Land Charge has been registered against the name searched.

The Land Charges Register also provides a comprehensive national index of bankruptcy petitions and orders based on material submitted by the Courts and the Official Receivers. Anyone who wishes may search this Index. Lenders search it regularly prior to making loans to intending purchasers.

In 1999-2000 the Department handled just under 2.8 million applications. Of those, the majority of applications for searches received requested multiple name searching. It employs 92 staff.

2.8 The Agricultural Credits Department

The Agricultural Credits Department was established by the Agricultural Credits Act of 1928. The Department maintains a separate Register recording the existence of loans to farmers secured on assets other than land. A small number of staff (one full-time equivalent) in the Land Charges Department at Plymouth operate the Register.

2.9 Financing Land Registry Services

In accordance with the philosophies of the 19th and 20th century legislators, the Land Registration Acts provide that Land Registry fees should be set at a level sufficient to cover the Registry's expenditure. Users, not taxpayers, are expected to finance the services.

The Lord Chancellor sets the fees accordingly after consulting a Statutory Rule Committee under the Chairmanship of a High Court Judge. The Chief Land Registrar, representatives of the Bar, the Law Society and the Royal Institution of Chartered

Surveyors are members of the Rule Committee. Its recommendations on fees require the concurrence of the Treasury.

The objective has always been, and remains, to contain fees at as low a level as is consistent with delivering an improving service.

2.10 Structures

The Land Registry has undergone three main structural changes in recent years.

First, as discussed earlier, the main day to day work of registration has been relocated from the Registry's London Headquarters at Lincoln's Inn Fields to 24 District Land Registries throughout England and Wales.

Second, the Registry became an Executive Agency in 1990 while remaining an independent Government Department under the Lord Chancellor. The Chief Land Registrar became Chief Executive and Chief Land Registrar.

Third, the Registry became a Government Trading Fund in 1993. This enables it to operate more like a commercial operation. The Registry's gross expenditure no longer scores as public expenditure but only any excess of expenditure over income. In practice, the Registry finances all its expenditure from fees and has earned small surpluses in many years. These score as negative public expenditure.

2.11 Earlier reviews

The Governments of the day commissioned two earlier reviews of the Land Registry before the present one:

- a Next Steps Review, in 1989, and
- a Prior Options Review, in 1994-95.

In the "Next Steps" Review of 1989, in accordance with the then Government's policies for improving public sector management, a team at the Cabinet Office (then OMCS) and HM Treasury, with input from HM Land Registry and designated officials from the Lord Chancellor's Department, examined the options of abolition, full and partial privatisation, public corporation status, contracting out and Executive Agency status.

Following this study the Government rejected the options of abolition, full or partial privatisation and public corporation status, and decided instead that the Registry, while retaining its status as a separate Department of the Lord Chancellor, should:

- be established as an Executive Agency,
- be considered as a candidate for Trading Fund status, and
- contract out several tasks previously undertaken in-house to private suppliers, notably in the areas of computing support, surveying and map supply, printing, security, cleaning and catering.

As discussed above, the Registry became both an Executive Agency (in 1990) and a Trading Fund (in 1993). The Chief Land Registrar was designated as its Chief Executive.

The additional flexibilities and delegations provided in the Agency Framework Document have helped the Registry to transform itself into a business-like organisation without diminishing its statutory role or impartiality.

The “Prior Options” Review of 1994-95 formed part of a wider Government programme to review the performance and status of all Executive Agencies.

This review was conducted, after competitive tender, by Price Waterhouse under the direction of a Project Board chaired by a senior official from the Lord Chancellor’s Department. The Board included the Chief Land Registrar and representatives from HM Treasury and the Cabinet Office.

The Price Waterhouse Review endorsed the decisions reached after the 1989 Scrutiny. Also endorsed were the Registry’s plans to develop further private partnerships, especially with a view to simplifying conveyancing.

The then Lord Chancellor, in a statement to the House of Lords on 15 July 1995, confirmed that the Registry would continue to discharge its statutory functions as an Executive Agency and a Trading Fund.

2.12 Modern management techniques

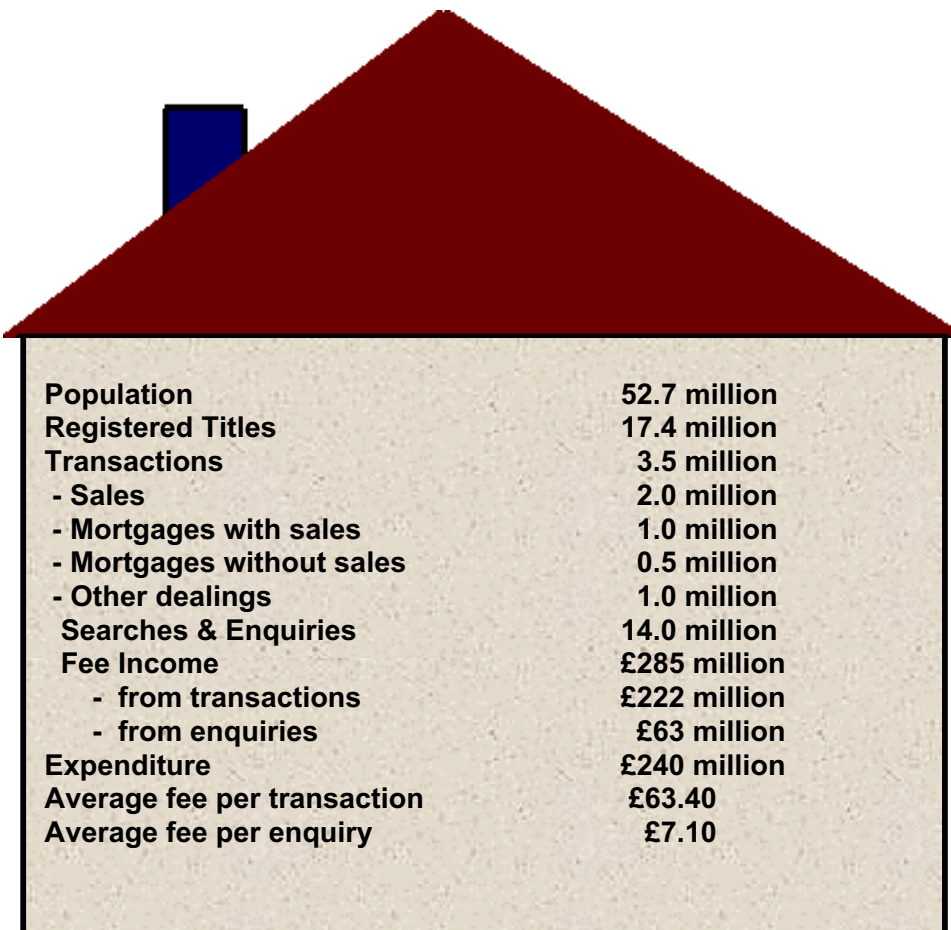
The Land Registry has been in the vanguard of management developments in the UK public sector over the past two decades.

Some particular areas where the Registry has successfully applied new management techniques have been:

- computerisation of registers and public access to them
- devolution of specialist work to well-trained junior grade staff
- systems re-engineering to enable one staff member to do jobs previously shared between several
- development of multi-skilled, self-managed small teams responsible for their own business planning
- customer service and surveys
- personnel systems including staff opinion surveys
- partnerships with private sector firms and consortia, including participation in the first public sector hub and channels contracts.

The Land Registry has not only done these things extremely well but also won a number of significant accolades for them. The Registry has secured, on each of three occasions since its inception, the Prime Minister’s ‘Charter Mark’ award for excellence in public services. Box 2.4 lists these and other accolades.

BOX 2.1
LAND REGISTRATION IN ENGLAND AND WALES
REGISTRATION OF TITLE STATISTICS 1999-2000 (ROUNDED TOTALS)



Population	52.7 million
Registered Titles	17.4 million
Transactions	3.5 million
- Sales	2.0 million
- Mortgages with sales	1.0 million
- Mortgages without sales	0.5 million
- Other dealings	1.0 million
Searches & Enquiries	14.0 million
Fee Income	£285 million
- from transactions	£222 million
- from enquiries	£63 million
Expenditure	£240 million
Average fee per transaction	£63.40
Average fee per enquiry	£7.10

BOX 2.2
LAND TITLES DEPARTMENT VOLUMES OF BUSINESS

	<i>1989-90</i>	<i>1994-95</i>	<i>1999-2000</i>	<i>Increase over ten years, %</i>	<i>Weighting in standardised output unit</i>
Applications for Register entries and changes	2,225,108	1,946,174	2,851,082	+28.13	1
First registrations	439,375	332,247	373,073	-15.09	3.3
Transfers of part (TPs)*	} 284,070	169,912	191,823	} -4.45	4.9
Dispositional first leases (DFLs)*		70,811	79,616		5.3
TOTAL	2,948,553	2,519,144	3,495,594	+18.55	
<i>Searches and other enquiries</i>					
Official searches of whole	2,535,869	1,616,353	2,488,915	-1.85	0.1
Official searches of part	350,302	220,870	254,331	-27.40	0.41
Requests for office copies	2,383,847	2,005,412	3,419,102	+43.43	0.25
Searches of the Index Map	1,138,697	856,707	1,852,290	+62.67	0.25
Other enquiries	1,201,084	1,758,393	6,000,308	+115.35	0.75**
TOTAL	7,609,799	6,457,735	14,014,946	+84.17	0.15#

* In the financial year 1989-90 TPs and DFLs were counted together.

** Correspondence and Register Views.

Telephone Enquiries.

BOX 2.3
LAND CHARGES DEPARTMENT VOLUMES OF BUSINESS

	<i>1989-90</i>	<i>1994-95</i>	<i>1999-2000</i>	<i>Increase over ten years, %</i>
New Registrations, including priority notices, rectification and renewals.	270,601	143,279	98,433	-63.62
<i>Also includes:</i>				
• Pending Land Actions	4,448	1,737	821	-81.54
• Writs or Orders (not bankruptcy)	9,849	3,545	1,069	-81.95
• Bankruptcy petitions and orders including deeds of arrangement	25,378	60,980	53,217	+109.70
Cancellations	162,683	88,288	65,829	-59.54
<i>Searches and other enquiries</i>				
Full searches - per name	2,886,083	1,483,693	1,321,148	-54.22
Bankruptcy only search -per name	2,579,502	1,917,972	3,178,501	+23.22
Office copies	249,375	141,073	174,697	-29.95

BOX 2.4

LAND REGISTRY CHARTER MARKS AND OTHER AWARDS SINCE 1995

1995

Charter Mark (awarded for the second time)

1996

Innovation in IT Award for the Direct Access Service

1997

Weymouth DLR ~ Annual award from Civic Society for good design of new building

1998

Charter Mark (awarded for the third time)

Welsh Language Scheme received full endorsement from the Welsh Language Board

NLIS won BCS Award (British Computer Society IT Award) for technical achievement and contribution to a better quality of life

1999

PricewaterhouseCoopers Award for best Annual Report and Accounts

Direct Access Service awarded the Society for Computers and Law Award for the most outstanding application of IT to the law

Tunbridge Wells DLR highly commended by Royal Tunbridge Wells Local Authority for excellence achieved in landscaping

2000

LR obtained Investors in People accreditation

Runner-up in BCI Year 2000 Achievement Award

LR website wins "Top Site" Award from Lawzone

Durham (Boldon House) DLR regional winners in the European week for Safety and Health 2000 (Health & Safety Commission)

Welsh Language Board commended LR's survey of customers in Wales and work done by Internal Audit as "excellent examples of good practice in Scheme monitoring"

DLR for Lancashire won Award for the Most Attractive Trade stand at The Royal Lancashire Show

DLR for Lancashire won Civic Conservation Award 2000 by Fylde Borough Council for good design in the environment

2001

DLR for Lancashire awarded Environmental System Management Standard ISO14001

3 PERCEPTIONS AND CONSULTATIONS

3.1 Overview

To judge by customer satisfaction surveys, letters received and comments made, the Land Registry is well-regarded. It is widely seen as discharging important national tasks with efficiency, integrity and courtesy.

The Land Registry's lawyers at Headquarters and in the 24 District Land Registries are well-respected. The management and staff who bear the main administrative burdens are likewise widely seen as doing a good job.

I have seldom, if ever, come across any other organisation that scores so highly in customer satisfaction surveys.

In terms of internal perceptions, too, the Land Registry scores exceptionally well. The staff attitudes surveys which the Registry commissions show more favourable results than those for any other organisation I have known. This too is a major achievement on which management and staff should be congratulated.

3.2 Customer satisfaction surveys

For the past nine years, the Land Registry has commissioned annual customer satisfaction surveys from independent consultants.

The autumn 2000 survey achieved a 40 per cent response rate. Some key outcomes are listed in the accompanying Box 3.1.

In most of the areas surveyed, 98 or 99 per cent or more of the Land Registry customers said that they were satisfied or very satisfied with the service provided.

These results are a remarkable achievement for which the Registry deserves special congratulations.

The extent of customer satisfactions is the more remarkable, moreover, when one remembers the sheer volume of the business. Currently the Registry turns round every day, very quickly, around 32 1/2 thousand applications for Register searches and office copies. This is a service of incalculable value which is all too easily taken for granted.

These are not, moreover, the Land Registry's only achievements. The Registry's success over many years in guaranteeing registered titles to land at minimal cost in indemnities is arguably a still greater achievement than all these put together.

The Land Registry has also made invaluable contributions over the years to underpinning the mortgages market and resolving boundary disputes. The customer satisfaction surveys barely capture these wider achievements.

As the Registry's management themselves are the first to acknowledge, however, there is no cause for complacency. On the contrary, there are many areas where continuing improvement is possible and desirable.

Within items covered by the survey, the two areas of the greatest perceived weakness are

- new titles (that is, first registrations of previously unregistered land), where 16 per cent of respondents thought the service was too slow and 5 per cent had concerns about accuracy, and
- keeping customers informed about delays in dealing with applications.

New titles are often inherently challenging and will almost certainly become more so as the Register approaches comprehensive national coverage.

There are also significant aspects not explicitly covered by the survey where the Law Society and others have requested improvements: see section 3.4 below. The respondents to the survey were seemingly not so concerned about these aspects as to express dissatisfaction with the Registry's services. But that is not to say that they are unimportant. They may also influence the split between "satisfied" and "very satisfied" ratings.

For the medium-term, moreover, there are many areas where there is scope for major improvement in services. Customers' expectations are likely to rise over time as the scope for improvement becomes clearer.

The Land Registry needs and wishes, therefore, to update the Land Registration legislation, upgrade the quality and coverage of the Register, complete computerisation of title plans and the index maps, promote co-ordinated electronic searches and introduce e-conveyancing.

Alongside these changes, the Registry needs and wishes to play a constructive part in improving the whole process of property market transactions and in promoting more transparent markets. All these advances will be reflected in improved customer satisfaction.

3.3 Staff opinion surveys

For the past three years, the Land Registry has commissioned an independent staff opinion survey from Jeremy Coyle Associates Ltd (JCA). The findings of the 2000 Survey were published in January 2001. The 2000 Survey achieved a 67 per cent response rate. Some key outcomes are listed in the accompanying Box 3.2.

The Survey consultants compared the outcomes in all areas with their experience of benchmark "norms" based on results from surveys of a wide range of other organisations. These help to put the Registry results in context.

In all the areas surveyed, the Registry came out either in line with the benchmark norms or significantly above. The areas included staff members' assessments of the overall quality of management, their immediate managers, communications, the Registry as a business, the Registry as an employer, job satisfaction and morale.

As in all large organisations, the generally favourable results mask some variations. Perceptions of management quality varied across the Registry. Ratings of the Registry's ability to cope with rapid change showed improvement over previous surveys but the Registry still clearly has much to do in this area.

Staff morale is shown as having risen steadily since 1997. Morale and job satisfaction are distinctly lower, however, among the most junior staff than in the rest of the organisation. This too is an issue that the Registry's management will need to address.

In general, however, staff clearly see the Registry as a strong, effective, customer-oriented business with an important job to do.

3.4 Review Team's consultative exercise

(a) Main impressions

We spent most of the first ten weeks of the Review consulting Land Registry staff, both at Headquarters and in selected District Land Registries, the Departmental Trade Union Side, other Government Departments and Agencies, local authority bodies, and representatives of the main groups of outside stakeholders. We also invited written submissions from all who wished to contribute.

The submissions I received from Land Registry staff, though few in number, were all constructive. The working environment in all the Land Registry offices I visited likewise seemed highly positive.

My interlocutors and correspondents outside the Land Registry mostly described the Registry's work as a service of real class and quality, while sometimes offering particular criticisms and suggestions.

The representatives of conveyancing solicitors whom I met at the Law Society, while generally supportive of the Registry, made some criticisms of the Registry's work and procedures which are not reflected in the customer satisfaction surveys. In my opinion these need to be taken seriously. A later section discusses the points raised and some further points raised by the Council for Licensed Conveyancers and RICS surveyors.

The other main impression from my consultations with professional groups was that, while land registration generally works well, the property market as a whole works less well.

There appears to be some dissatisfaction, among professionals and those who buy, sell or rent property alike, with the national system for property market transactions as a whole. For the most part, lenders, estate agents and conveyancers, rather than the Land Registry, tend to attract the blame for this and indeed to blame each other. Or the troubles are not seen as being anyone's fault. Later sections of the Report discuss these matters further.

A final element in the process of consulting professional groups was to examine and compare the systems of other countries which have made considerable progress in computerising land registration processes. My colleagues and I learned much from

our visit to the Canadian provinces of Ontario and British Columbia and from the Chief Land Registrar's visit to Australia. Published information about systems in other European countries was also helpful.

As discussed below, a few dissatisfied owners of property wrote in a more critical vein than any of the professional groups.

The paragraphs which follow provide some more details on the written submissions and visits we undertook.

(b) Written submissions

The initial announcement invited anyone who felt they had something to contribute to the Review to write to me at the Land Registry. Copies of the announcement and the terms of reference were sent to a wide range of bodies with an interest.

The substance of the 27 submissions received are listed at Box 3.3 and contributors listed in Annex C. These included major submissions from bodies representing the co-providers of property market services, such as conveyancers and lenders, and from the Departmental Trade Union Side (DTUS), with all of whom I had constructive discussions (see below).

The response was perhaps a little thin in terms of volume. Individual respondents did however make some valuable and interesting points, including those listed in Box 3.4. The report deals with some of these. I have asked the Registry to deal with others of a more technical nature which the Review was not able to address.

As mentioned above, a few dissatisfied owners of property wrote in a critical vein about the way the Registry had dealt with them.

As is well known, land and property can be the subject of heated disputes. Sometimes the dissatisfied parties feel, rightly or wrongly, that the Land Registry is to blame or partly to blame.

The hard fact is, in my opinion, that some such cases are bound to occur in any major public service. The task for the service provider is to do what can be done to minimise the number of grievances and to have good systems for dealing with them if and when they arise.

As discussed in later chapters, my impression is that the Land Registry has done well on both these tests. The basic registration systems are good. The Registry's staff do a remarkable job in helping to reconcile disputing neighbours. There is also a well-designed complaints procedure, including a recently introduced Independent Complaints Reviewer, which seems to me a model of its kind.

(c) Visits to outside stakeholders

Among the main stakeholder representative bodies, I had constructive and helpful exchanges with

the Law Society
the Council for Licensed Conveyancers
the Council of Mortgage Lenders
the British Bankers Association
the National Association of Estate Agents
the Royal Institution of Chartered Surveyors
the Local Government Association.

The Law Society's representatives urged that the Land Registry should remain in the public sector and not be privatised.

While commending the Registry's work, they identified a number of areas where the Registry's services could be improved. Improving service quality was more important, in their view, than reducing fees.

The main areas identified were:

- a shortage of suitably skilled and qualified staff in District Land Registries to deal with more complicated applications
- delays in first registrations and plan alterations
- overly strict rules on the grant of title by adverse possession
- failure to enter all relevant information on the face of the Certificate
- requirements for sellers' signatures on minor alterations
- an absence of cross-referencing in mortgages of part
- insufficient consultation over re-design of forms
- an overly strict policy on cancellation of applications
- misdirection of documents

Land Registry staff have confirmed that they take these and other points seriously and are determined to bring in improvements wherever the law and other circumstances permit. They brought in a major programme three years ago to raise the number of qualified staff, including introduction of a Land Registry Qualification at degree level. With regard to first registrations, they believe that they will shortly be able drastically to reduce completion times in most cases. Chapter 5 picks up the point about self-contained Register entries and some of the other points.

The Law Society representatives commended the case for moving quickly to online applications. They argued that ultimately solicitors should be responsible for making entries directly on the Register.

The Council for Licensed Conveyancers, which acts as the Regulator for the 1000 licensed conveyancers in England and Wales, spoke well of the Registry's work.

The Council urged that licensed conveyancers, like solicitor conveyancers, be allowed to represent clients at the Land Registry's adjudication hearings. The Registry has already taken steps to make that happen. The Council also urged closer co-operation by the Registry in providing references for individual practitioners.

The Council shared the Law Society's concern about skill levels of Registry staff who check titles. Such staff must be able to identify cases where lawyers needed to be

consulted. The procedures for replacing land and charge certificates which owners or lenders had lost seemed to vary between District Land Registries. Clarification was needed.

The Council of Mortgage Lenders likewise praised the Registry's work. They attached especial importance to the Registry's "dematerialisation" programme for replacing charge certificates by entries in the charges section of the title register and the "ENDS" programme for electronic notification of discharge of mortgages (see Chapter 8).

The Council's representatives also urged rapid progress towards:

- completion of the Register's geographical coverage so as to minimise the need for retention of paper deeds, and
- provision of a high quality official index of house prices.

The Surveyors whom we met at the RICS mentioned several ways in which the frequency and intensity of boundary disputes might be reduced and the handling improved:

- early completion of Register coverage so as to remove the problems arising from unregistered land
- higher profile warnings for the public about the dangers of adverse possession
- replacement of provisional boundaries by surveyed boundaries within a defined period
- earlier reference of difficult cases to the Registry's Headquarters lawyers.

The surveyors also commended the case for:

- early availability of a publicly available Index map to assist in identifying properties
- inclusion of scale bars in title plans and labelling of the points of polygons
- more punctilious updating of proprietors' names, especially on deeds.

Later sections of the Report discuss many of the issues raised in these consultations. Land Registry staff have confirmed that some of the more technical suggestions made are already on their agenda and they will give close consideration to the others as well.

I also had constructive discussions with staff of the Local Government Association (LGA), the Local Government Information House (LGIH) and MacDonald Dettwiler about the National Land Information Service (NLIS) and with LGIH about the National Land and Property Gazetteer (NLPG).

(d) Visits to Government bodies

I had useful discussions with

The Lord Chancellor's Department, LCD

The Department of the Environment, Transport and the Regions, DETR
The DETR's Property Advisory Group
The Inland Revenue, IR
The Valuation Office, VOA
Ordnance Survey, OS
The Law Commission
HM Treasury and
The Cabinet Office.

One of the main conclusions I drew from these discussions is the need for more effectively joined up Government in the wider area of the national systems for land and property transactions. Chapter 12 discusses this matter.

(e) Discussions with Land Registry HQ and Districts staff and Trade Unions

I consulted all the senior staff at the Land Registry HQ, many of them on several occasions and at considerable length.

I also visited the Portsmouth and Plymouth District Registries and the Computer Services Division, the Land Charges and Agricultural Credits Departments at Plymouth. Several senior staff from the Districts came to see me at HQ.

Without exception, these consultations were invaluable. The Land Registry has many able and dedicated staff, highly expert in their fields and with a well-developed *esprit de corps*. They were all commendably willing to discuss radical thoughts.

I also had a substantial and constructive discussion with the DTUS. Their main concern was that the Land Registry should remain in the public sector. A submission which they sent me subsequently discussed many other important points as well.

3.5 Visits to Canada and Australia

With two colleagues from the Land Registry, I spent three days in Canada examining the progress that the provinces of Ontario and British Columbia have made in moving towards an electronic Register and electronic lodgement of applications for change of registered ownership and charges.

The two provinces are further advanced in some respects than the Land Registry in the electronic process. In Ontario, electronic lodgement exists on a small scale alongside some ancient practices. Much attention had been paid to educating staff and co-providers. In British Columbia, the Law Society had made impressive progress in developing systems for electronic signatures and authentication. In contrast with the UK, however, purchasers make few searches before contracting to buy their houses, and the policy is to replicate the present conveyancing system electronically rather than seize the opportunity to improve it.

The Chief Land Registrar visited Australia at the same time. Here too some provinces had made interesting progress on e-signatures, authentication, and models of e-conveyancing, including cost / benefit analysis.

We learned much, directly and vicariously, from these visits.

BOX 3.1
CUSTOMER SATISFACTION SURVEY, AUTUMN 2000

<i>Service</i>	<i>Assessment</i>
Overall service	
Land Registry	99 % “satisfied or very satisfied”
Land Charges Department	98.77 % “satisfied or very satisfied”
Comparison with other public service organisations	88 % thought LR “better or much better”
Comparison with private sector organisations	77 % thought LR “better or much better”
Accuracy of certificates	95 % “satisfied or very satisfied”
Speed of service:	
Searches and office copies	99 % “satisfied or very satisfied”
New titles	84 % “satisfied or very satisfied”
Dealings in existing titles	98 % “satisfied or very satisfied”
Keeping customers informed about delays	75 % “satisfied or very satisfied”
Telephone services:	
General enquiries	99.46 % “satisfied or very satisfied”
Other	99.60 % “satisfied or very satisfied”
Complaints handling	97.39 % “satisfied or very satisfied”

BOX 3.2
STAFF OPINION SURVEY, 2000

<i>Subject</i>	<i>Staff response</i>
Views of management	
The Agency Board	55 % “very/fairly good”
Your own office /division	63 % “very/fairly good”
Your own team	73 % “very/fairly good”
Staff perceptions of LR as a business	
Offers a good service to its customers	94 % “strongly agree/tend to agree”
Successful in improving and developing customer services	90 % “strongly agree/tend to agree”
Committed to being the best public service provider	87 % “strongly agree/tend to agree”
Is a successful business	85 % “strongly agree/tend to agree”
Has good prospects for the future	79 % “strongly agree/tend to agree”
Has a clear corporate vision	71 % “strongly agree/tend to agree”
Has a blame free culture	48 % “strongly agree/tend to agree”
Copes effectively with rapid change	43 % “strongly agree/tend to agree”
Staff perceptions of LR as an employer	
Offers good terms & conditions of employment	86 % “strongly agree/tend to agree”
Provides a range of working patterns to suit my needs	77 % “strongly agree/tend to agree”
Pays proper attention to the health & safety of staff	77 % “strongly agree/tend to agree”
Pays me fairly for the work I do	63 % “strongly agree/tend to agree”
Shows concern for well-being of staff	57 % “strongly agree/tend to agree”
Demands too much of staff	55 % “strongly agree/tend to agree”
Has an authoritarian management style	51 % “strongly agree/tend to agree”
Communicates frankly and openly with staff	43 % “strongly agree/tend to agree”
Recognises and rewards good performers	40 % “strongly agree/tend to agree”
Promotes people on merit	27 % “strongly agree/tend to agree”

BOX 3.3
LIST OF WRITTEN SUBMISSIONS

Issue raised (<i>a number of submissions included more than one item</i>)	No
Accuracy versus completion times	1
Adverse possession	1
Amalgamation of titles ~ HMLR less willing to merge adjoining titles	2
Cancellation policies and procedures	3
Cessation of HMLR's practice to include an explanatory plan to a search of the Index Map ~ request to reconsider	4
Changes to local authority areas and the effect on HMLR	1
Clerical errors	1
Completing the Land Register	3
Completion times	2
Direct Access	1
Disputes with HMLR or neighbours	2
E-mail addresses ~ provision of	1
E-conveyancing	3
Fixed boundaries ~ advocating the adoption of	1
Forms	2
Fees	3
Making the conveyancing process easier for members of the public	1
Lack of staff resource/de-skilling	1
NLIS	1
Official house prices index	1
Partnerships with other government departments	3
Poor quality of applications lodged at HMLR	1
Public access to HMLR data	1
Public information	2
Privatisation of HMLR	4
Representation at HMLR tribunals	1
Sewing up of documents rather than setting out on the Register of Title	2
Telephone Service Centres	2
Use of HMLR reserves	1
Vectorisation of the Index Map	2
Widening the methods of payment to HMLR	1

BOX 3.4
SOME POINTS FROM WRITTEN SUBMISSIONS

- In general the LR was seen as doing a good job.
- Several respondents argued strongly against privatisation of the Land Registry.
- Several respondents commended the Registry's initiatives for electronic notification of discharge of mortgages and de-materialisation of deeds.
- Several conveyancers suggested detailed ways in which the service could be improved, methods of payment improved or anomalies rectified.
- One company argued for broadening the range of geographic information supplied and criticised contract awards relating to NLIS and NLPG.
- Five Registry staff wrote with a range of suggestions and concerns.
- Two members of the public invited me to intervene in disputes with the Land Registry or their neighbours. I explained that I was not able to do this. I was able however to learn something from these cases.

4 STRATEGY: STRATEGIC PROGRAMME

4.1 Introduction

The fundamental issue for the Land Registry, as indeed for any other organisation, as it looks ahead over five to ten years, is what it should be trying to do. How should it seek to develop its role? What strategic objectives and priorities should it set, and plan to deliver, during that period?

Other issues, too, are important. For the Land Registry, there are significant issues in areas such as status, governance, structures, relations with others and finance.

These other issues, however, are about how best to deliver what needs to be done. The starting point is *what* needs to be done.

4.2 Importance of land ownership and registration systems

In considering what the Land Registry needs to do, we need always to keep in mind how important national systems for land ownership and registration are.

There is a mountain of experience from across the world that:

- Successful market economies depend on national systems for secure ownership of land and property in which all who live or do business in the country can and do have confidence.
- Without such security of ownership, and the solid basis for borrowing money which it brings with it, enterprise cannot flourish.
- Governments alone are in a position to deliver the confidence and security required.
- The best, and perhaps the only, way to deliver such confidence is through systems of registration of land ownership or title under which the Government guarantees ownership and pays indemnities when things go wrong.

To see how serious these things are, one needs look no further than the countries of the Former Soviet Union and Eastern Europe.

After many years of public or collective ownership under communist rule, people in many of these countries have little confidence in titles to land and property. This is not just a source of great personal anxiety but also deters enterprise. The low level of confidence in property ownership likewise acts as a serious deterrent to overseas investors. It is one of the most serious impediments to economic growth.

Easy as it is to take such things for granted, therefore, a robust and trusted national system for registering and guaranteeing land and property ownership is a precious possession that needs to be cherished.

4.3 A Vision for the 21st Century

As discussed in Chapter 2, the Land Registry successfully introduced land registration in the second half of the 19th Century and successfully consolidated, extended and improved registration and related services in the 20th Century.

With the passing of the 20th Century, it is natural to ask what the Registry might seek to achieve in the 21st century.

In my opinion, based on the Government's Consultation Paper of 1998, *Land Registration for the 21st Century*, and discussions over several months, the Land Registry needs to strike a considered balance between progress and stability, inspiration and realism, excitement and caution. The scope for progress is immense. But confidence and security must be preserved.

As a practical matter, I believe that there is scope for some quite dramatic progress without putting stability at risk.

In my opinion, the Land Registry should aspire in this Century to deliver some rather broader strategic goals:

- to develop and maintain world-class national systems for registering and guaranteeing land ownership, title plans, interests and mortgages throughout England and Wales
- in co-operation with others, to promote world-class national systems for buying, selling, leasing and mortgaging of land, including a comprehensive Register of interests in land, a national land information system, and transparent property markets
- to ensure that these systems work as well as possible, for the benefit of the country as a whole and in particular all who have interests or conduct transactions in land and property.

The Registry might seek to build this brave new world around seven main pillars most of which are already in the design or construction phase:

1. a new and classic *Act of Parliament* setting out the main principles of improved national systems for land registration, guaranteed ownership, leases, charges, other interests, notices and cautions, and opening the way to ownership and transfers by registration rather than registration of ownership and transfers
2. a *Register with comprehensive national coverage*, including all new or assigned leases over 3 years and providing enhanced information on ownership, mapped extents, rights of way and other easements, charges and cautions, other interests, past sale prices and other financial considerations
3. a *Register which is fully computerised and accessible electronically* and an online facility for instant, up to date and comprehensive property searches

through the *National Land Information Service*, coupling Land Register information with other information relevant to buyers and sellers, such as local authority planning and other information, valuations for tax purposes, Highways Authority, The Environment Agency and utilities information

4. *development of e-conveyancing*, including electronic lodgement and confirmation of applications to make changes in the Register, holding of deeds and certificates in electronic form, electronic settlement (if possible) of payments due on completion, and re-engineering of buying and selling processes with the help of a Joint Property Market Charter for the benefit of all who conduct transactions in land
5. promotion with other Departments and service providers, and with the help of new technologies, of *transparent and well-functioning markets* in land, property and mortgages, including transparency of market transactions (sale prices, leasing details and mortgage amounts or limits) and publication of much enhanced national, regional and district data on sale prices, leasing terms and mortgages, analysed by property type and floor areas
6. provision of a fully separate *adjudication service* in the Land Registry, and
7. provision of *education and publication services* and self-financing *advisory services* for international consultancy, specialist issues of title and registration, title plan preparation, advice for lay-conveyancers, and historical research.

4.4 Aims and objectives: present texts

The Land Registry's "Aim, Objectives and Principles" are defined for the purposes of its Annual Business Plans and Annual Reports and Accounts in accordance with current practice laid down by the Central Departments. The latest version is reproduced in Box 4.1.

The Registry's Board offered a different short formula in the introduction to its pamphlet "Our Future" published in May 2000. This too is reproduced in Box 4.1.

The Registry's Statement of Service standards includes another formula again. This is reproduced at Box 4.2.

The main text is the first of those just mentioned, the statement of "Aim, Objectives and Principles" which appears in the Annual Business Plans and Annual Reports and Accounts (Box 4.1). This text combines a description of the Registry's functions with some indications of how its agenda for the shorter-term fits with wider Government policies and initiatives.

For present purposes, the question is whether these formulas, and in particular the Box 4.1 formula, adequately encapsulate a strategy for the next five to ten years. In my opinion, the answer has to be, No, not really. They are evidently not intended to do so.

The main limitations of the present formulas, and in particular the Box 4.1 formula, from this point of view, are:

- The Aim, surprisingly, does not mention the core task of registering and guaranteeing land ownership at all but refers only to land information systems. It is also expressed in very general terms without any indications of wider context
- The Objectives describe the Land Registry's functions rather than its strategic objectives
- The Principles, for the most part, are statements of intention to conform with Government-wide initiatives and good management practice. Most of them have no Land-Registry-specific content
- The Statement nowhere mentions critical strategic elements such as the wider context, new legislation, subject coverage of the Register and e-conveyancing
- Other points, such as full geographical coverage of the Register and computer mapping and scanning, are mentioned but there is no indication of timetable or priorities
- In general, the Statement is somewhat risk-averse. It would be quite difficult to prove later that any part of the strategy was not delivered.

The Statement of Service Standards at Box 4.2 is designed for a different audience, those who use or consume the Registry's services. It contains different language tailored for such an audience.

The material on what the Registry does is a simplified version of the "Objectives" section of the main Statement at Box 4.1.

The "Vision" and "Mission", on the other hand, contain different material which includes the useful ideas of professionalism, courtesy, and striving to be a continuously improving world-class provider.

In my opinion there is a case for distilling the "Vision" and "Mission" statements into a simpler "Mission of Service", as suggested at the end of Box 4.2.

4.5 Aims and objectives: a possible new formulation

Our principal purpose in the present Report is to help the Land Registry to define a strategy, or strategic objectives, for the medium-term and in particular for the next five or ten years. In my opinion, a rather different formulation, not subject to the limitations listed above, is needed for this purpose.

In my opinion, again, a reasonable aim for the Land Registry over the next five to ten years might be to achieve as much as possible of the agenda for the next century described in section 4.3 above.

Within that agenda, some elements are resource-intensive in terms both of senior management and of staff. So the pace of progress would have to depend in part on the resources that can realistically be made available. We consider this important issue further in the next section of this Chapter and again in later chapters. At first sight, however, there would seem to be scope for delivering most if not all of the agenda in the next ten years and much of it within the next five years.

With that in mind, we have sketched in Box 4.3 a possible new formulation of strategy closely related to the vision for the 21st Century sketched above (the strategic responsibilities and the seven pillars of section 4.3) but incorporating specific targets and timetables. This is, in effect, a suggested strategic programme for the next 10 years. The Seven Pillars Chart in Box 4.4 offers a visual interpretation.

There is no absolute need to replace the present statement of aim, objectives and principles with an alternative formulation on these lines. In my opinion, however, there is great advantage for any organisation in having one strategic statement (in a full version and a short version) rather than several. The message to staff and the rest of the world is then much clearer.

The Registry may like, therefore, to consider with others concerned, developing a new statement of their strategic programme along the lines suggested.

4.6 Timetable

An important feature of the proposed new strategic programme is that it sets provisional target dates for delivery of each of the main elements.

Specifically, the programme provides for:

- *delivery by 2003* of a fully electronic Register, many elements in e-conveyancing, a Joint Property Market Charter, coverage of all new leases above 3 years, enhanced mapping facilities, an independent adjudication service, new property market publications and new advisory services
- *delivery by 2005* of full e-conveyancing accompanied by re-engineering of the national property market transaction processes designed to reduce delays between handshake and contract from eight weeks to three and eliminate delays between completion and registration
- *delivery by 2010* of a Register with complete national coverage and digitised title plans.

It seems better to set such a timetable, however provisional it may have to be, than to proceed without any sense of what needs to be achieved by when.

Without such a timetable, there is no rational basis for deciding how many staff should be allocated at what points to which individual programme.

The schedule at Box 4.5 shows a provisional set of target dates for launching and delivery of the various initiatives listed in the suggested strategy. It reflects the strategy suggested in Box 4.3 and in succeeding Chapters of this Report.

Box 4.6 offers a visual interpretation.

4.7 Resources

A critical question, clearly, is whether the strategic programme and timetable sketched above, and encapsulated in Boxes 4.3 and 4.5, is realistic in terms of the resources the Registry is likely to have available, above all staff but also financial resources.

With regard to staff resources, the schedule at Box 4.8 gives a provisional projection for the staff numbers (in terms of full-time equivalents including overtime) likely to be needed over the years to 2010 in order to deliver the proposed strategic programme alongside on-going business. The notes accompanying the projection list the main assumptions made. The Chart at Box 4.7 adds an historical perspective.

Any projection of this kind must be subject to a wide margin of uncertainty. The uncertainties relate not only to the numbers of staff required to deliver the strategic programmes but also to the rate of growth of on-going business and the scope for realising efficiency savings.

Subject to these important qualifications, the projections point to the following important conclusions:

- i. It should be possible to deliver the proposed strategic programme in the present decade within the present level of some 8,250 full-time equivalent staff, including overtime, or around 7,800 excluding overtime.
- ii. If on the other hand the number of full-time equivalent staff were reduced to (say) 7,000, it could take several decades to complete delivery of the programme.

In principle, the Registry could deliver the proposed programme with fewer staff by contracting out some of the work involved.

In my opinion, however, the Registry will do better in terms of quality, and probably in terms of cost as well, to use its own trained and experienced staff for these purposes rather than contract the work out. The work will consist mainly of preparing first registrations of previously unregistered freeholds and leases, new index maps and title plans. This work requires well-trained, expert and experienced staff. If the tasks are not expertly done, the Registry (and the public) will suffer in the years to come. There is a risk that claims for indemnity would rocket.

In terms of costs, staff remuneration accounts for the lion's share of total costs of the strategic programme. There is therefore a presumption, at least, that total costs will rise broadly in line with, or slightly below, pay inflation generally.

If the projections are correct in assuming a significant growth of ongoing business, the Registry should also have some scope for reducing fees.

4.8 Commentary on staffing projections

The staffing projections in Box 4.8, though inevitably provisional, are so important in considering the Registry's strategy for the next 10 years that it may be useful to elaborate a little on the methodology and assumptions.

A preliminary point to note is that the projections relate, not to actual staff numbers, but to numbers of full-time-equivalent staff (FTE) including overtime. This means that two staff working half-time will score as one FTE staff member. More significantly, in the Registry's case, it means that 10 staff each working 15 per cent overtime on top of their standard hours will score as 11 1/2 staff.

The first, "baseline", section of the table projects how many FTE staff are likely to be needed if things continue the way they are. Specifically, this "baseline" projection assumes no productivity gains and no new development programmes to improve the Register and services to the public.

Within this section, some important assumptions are:

- (a) the number of straight forward applications for changes in the Register which the Registry handles ("dealings") will continue to grow by 3 per cent a year, in line with recent experience and with the expected growth of households
- (b) servicing of requests for office copies, searches and other enquiries will continue to increase by around 7 per cent a year
- (c) processing of labour-intensive first registrations (of previously unregistered properties) will fall from the present annual level of around 335,000 by around 4 per cent a year as the stock of transactions where owners are obliged to register by existing statutory "triggers" declines.

The projected staffing requirements are sensitive to these assumptions. If property market turnover or rates of re-mortgaging were to rise or fall markedly, for example, the requirements could change significantly, especially in individual years.

On the assumptions made, the "baseline" FTE staff requirement including overtime rises by more than 2,000 from the present level of some 8,250 to around 10,300 by 2010.

The next section of the table indicates what savings in the FTE staff requirement the Registry should be able to make through productivity improvements, especially modernised working processes and computerisation.

As the table indicates, ongoing modernisation and infrastructure programmes are projected to reduce the FTE staff requirement by about 1,100 from 2002-03.

As discussed in later chapters, these ongoing programmes include the following main components:

- i. re-engineering of working processes based on small “combined operations” teams of multi-skilled staff backed by specialist teams for the more difficult cases and a progressive switch from postal to telephone and electronic enquiries,
- ii. computerised digital mapping for all new title plans, and
- iii. scanning of documents referred to in the Register.

The baseline figures already take credit for scanning of existing Register entries and title plans.

The proposals under “e-conveyancing” for e-lodgement of applications to the Registry are projected to yield further savings in due course of a similar or even greater magnitude in FTE staff requirements. Chapter 8 discusses the e-conveyancing programme in some depth.

These projections make the cautious assumption that changes in FTE staff requirements from the e-conveyancing programme will lag somewhat behind the proposed roll-out of the programme.

Other savings foreseen or assumed are:

- a gross saving of 208 staff from 2004 when the programme to convert the old “blue card registers” comes to an end
- further operational savings assumed to produce savings of 1 per cent a year cumulative from 2004-05 onwards
- an assumed saving of around 100 in personnel and pay staff.

The projected reductions in the requirement for personnel and pay staff are indicative only. For the reasons discussed in Chapter 18, there should be scope for reductions in this area. The projections assume a reduction of 20 per cent next year, followed by a further 20 per cent in the following year, in accordance with the preliminary target suggested there.

As the table indicates, the savings foreseen and targeted in the FTE staffing requirement add up to some 3,225 by 2010.

When these projected savings are subtracted from the baseline projections, the net FTE staffing requirements before allowing for the strategic programmes to improve the Register and Register services fall after two or three years to less than 7 thousand, well below the existing requirement of some 8 ¹/₄ thousand.

Within staffing levels similar to now, therefore, there should be scope for carrying out major improvement programmes.

The final section of the table indicates the extra FTE staffing which the strategic programme and timetable discussed in this and later Chapters and in Boxes 4.3 and 4.5 are likely to require.

As the table indicates, there are three main components in the strategic programme that will be staff-intensive, and a number of less staff-intensive programmes as well.

The staff-intensive programmes are:

(a) *Completion of the Register's geographical coverage by 2010*

As discussed in Chapter 5, there is no certainty as to the number of titles still to be registered or the difficulties they are likely to cause and hence the feasible rate of processing.

On the assumptions, however, that there are upwards of 5 million more titles still to be registered (say 5.2 million) and that staff will be able on average to complete 2 1/2 new registrations per working day, or around 550 per working year, completing the vast majority of titles is likely to require some 9 1/2 thousand staff years in total.

The existing programme, however, reflected in the baseline staffing requirements, already allows for completion of a significant proportion of the new registrations needed.

Hence the additional FTE staffing requirement will possibly be some 5 thousand staff years in total. The table spreads this requirement over the period to early 2010.

A faster programme would increase the requirement pro rata. A slower programme would reduce it.

(b) *Registration from June 2003 of new or re-assigned leases with 3 or more years still to run*

As discussed in Chapter 5, the best guess that the Registry can make is that this change would increase the number of lease registrations by 45,000 a year.

On the assumption that staff will be able on average to register 2 1/2 new leases per day, or 550 per year, the additional FTE staffing requirement comes to around 80. In contrast with completion of the Register, this would be an ongoing requirement.

(c) *Digitisation of the Registry's index maps and title plans.*

The programmes and timetables for digitisation of the index map and then title plans discussed in Chapter 6 would require an additional FTE staff requirement building up to some 480 by 2005-06.

As the analysis indicates, these important programmes will all require large inputs of time by staff at operational levels. The scope for accelerating the programmes, or reducing staff requirements, by use of e-technologies or contracting out is limited. As discussed above, staff with much skill and experience will need to compile or check these new elements in the Register.

The larger Register resulting from the first two programmes will generate some additional on-going servicing workload. The projections include an allowance for this.

Other elements in the strategic programme will likewise require some gross additions to the FTE staffing requirement, though it would seem a reasonable objective to contain any increases at Headquarters within the existing complement.

One possible element in this connection will be the proposal, discussed in Chapter 5, to include notices of *real or beneficial ownership* on the Register where this differs from registered ownership. Such a proposal, if pursued, would be likely to require a considerable amount of staff effort for the first few months after its introduction but relatively little thereafter. The projections do not specifically allow for this. But there is probably a sufficient contingency margin within the provision for completing the Register to accommodate this programme as well without jeopardising the wider programme timetable.

The proposal for introducing a facility for overlaying title plans or index maps over aerial photographs or coloured maps would not be staff-intensive and should be capable of being accommodated in a similar way.

Other needs for extra resources included in the projections are:

- *Front-end support for e-conveyancing* (notably additional helplines for conveyancers and lenders, for a period at least, and troubleshooting).
- *Quality assurance for e-conveyancing*. This will be an important element, not least in early implementation of the e-conveyancing programme.
- *Additional IT staffing requirements*, as proposed in the recent Logica Report (see Chapter 19).
- *Education services*. As discussed in Chapter 10, some temporary increase may be needed to accompany the proposed new Land Registration legislation and the introduction of e-conveyancing, though substantial redeployment of existing training resources may also be possible.
- *Land Registry Advisory Services*. Some additional Land Registry staff would be needed to implement the proposal in Chapter 10 for establishment of new Land Registry Advisory Services. These services would, however, be predominantly staffed from retired Registry officials and other part-timers from outside.

As the table indicates, the additional FTE staffing requirement foreseen for all the development programmes discussed comes to between 1,100 and 1,750 in each year between 2002-03 and 2009-10.

When this requirement for additional resources is added to the projected net requirement before development programmes, the total FTE staffing requirement turns out to be quite similar to (in fact slightly below) the baseline figure, and the expected outcome, for the current year.

These projections provide the basis for the conclusion in section 4.7 that it should be possible to deliver the strategic programme and timetable proposed within existing staff levels.

In financial terms, a programme on the lines sketched here would involve the Registry in substantial gross expenditure on staff and a certain amount on information technology.

If the FTE staffing projections are on the right lines, however, the extra gross expenditure should be broadly offset by savings.

With regard to fees, the costs of Register completion and registration of additional leases should be largely covered by fees. The expenditure on mapping improvements would not be directly offset by fees and would need to be spread across customers generally to the extent it is not financed from reserves (see Chapter 17). In my opinion, this would be entirely defensible. The programme will produce across-the-board improvements from which all users will benefit.

The prospects for continuation of the budget at around present levels together with new sources of fee income provide the basis for the earlier proposition that some reduction in fees may also be possible over the years ahead.

The remaining sections of this Chapter and the six Chapters which follow discuss in turn each of the main elements encapsulated in the suggested strategic programme, including the main statement of strategic aims and the seven pillars.

4.9 Strategic aim

For the benefit of all who have interests or transactions in property, and in co-operation with others, to develop, promote and maintain world-class national systems for guaranteeing ownership of land and for buying, selling, leasing and mortgaging of property in England and Wales, within a framework of transparent land and property markets

The strategic aim is what many organisations call their Mission or Mission statement.

In any such statement, brevity is a virtue. Especially in public bodies, however, the full version of the statement should preferably signal the wider national context, the standards sought and the population served as well as defining the role.

The illustrative statement signals all these points in terms of world-class national systems for land and property, for the special benefit of those with interests or conducting operations in land and property.

It also signals up front the important point that the Land Registry has to deliver the strategic aim in co-operation with others. These others include:

- Other Government Departments and bodies, such as LCD, DETR, DTI, HMT, Cabinet Office, Inland Revenue, Valuation Office, Ordnance Survey, ONS Customs and Police Forces
- Local authorities and local authority associations and bodies
- Private sector service providers, notably conveyancers, lenders, estate agents, and surveyors.

4.10 Land Registration Bill

Strategic objective pillar No 1 envisages a new Land Registration Act to replace the Land Registration Act 1925:

To prepare and promote new world-class legislation providing for improved national systems for land registration, guaranteed ownership, transfers, leases and mortgages, including use of e-technologies, and opening the way to ownership and transfers by registration rather than registration of ownership and transfers from September 2005

The present legislation for land registration and the Land Registry consists mainly of the Land Registration Act 1925, supplemented and amended by subsequent Acts.

As discussed in Chapter 2, the 1925 Act was one of a tranche of historic “Birkenhead statutes” of that year. Lord Birkenhead, the Lord Chancellor who promoted not only this Act but also the Law of Property Act 1925, the Settled Land Act 1925, the Trustee Act 1925, the Land Charges Act 1925 and other associated statutes, said in the House of Lords:

“This Bill will do more for the land owning and land acquiring class than any Bill which has been before your Lordships’ House for many years.....The whole process of land transfer is irrational to a degree that I cannot describe. Nothing can remedy this except registration of title....”

Seventy-five years on, the 1925 Act and the subordinate Land Registration Rules of that year have achieved the expectations of their promoters. Despite some redundant material and obscurities, the Act anticipated in a remarkable way many of the requirements of a developed system of guaranteed title, protection for third parties, and transparency of conveyancing. These advances in turn made possible the spread of secure ownership of land and property. They also made possible the development of a solidly based mortgage market.

With the passage of time, however, conditions have changed and new requirements have arisen. In contrast with 1925, registration is now the dominant system of land ownership. Paper is no longer the only convenient form for documents. The present legislation needs to be updated in many areas including provision for certain matters discussed in this Report. A list of these is in Box 4.9. A list of certain other possible legislative changes, less suitable for a Land Registration Bill, is at Box 4.10.

Just as the 1925 Act was one among the classic Birkenhead statutes, so it will be important that the new Act should be a classic among statutes of the 21st century.

The Joint Consultative Paper by the Land Registry and the Law Commission published in 1998, *Land Registration for the 21st Century*, has paved the way for such legislation.

The new Act will need to set out with the utmost clarity the main principles of land registration for the 21st century.

Its purposes, preferably stated, should be to make provision for a modern system of land registration with security of tenure, to guarantee ownership and other registered rights through a system of indemnities, to sustain the mortgage market, to simplify sale and transfer processes, to provide for electronic means of executing transactions, and to enhance the transparency of dealings and markets.

The Act should preferably bring out the main principles of modern systems for:

- Security of title
- Guarantees and indemnities
- Ownership and transfers in due course through registration
- General boundaries
- Easements and covenants
- Charges and discharges
- Comprehensive registration of interests, to the extent practicable
- Notices and cautions
- Adverse possession
- Transparency and accessibility
- An electronic Register, documents, transfers and other transactions.

It would also cover in due order the other points listed in Box 4.9.

I hope that it may be possible to introduce new legislation on these lines in an early session of the forthcoming Parliament. This is necessary both to pave the way for e-conveyancing and to enact many of the other important changes already listed.

Powers already available in the Land Registration Act 1925, as amended, and in the Electronic Communications Act, 2000, will enable the Registry to make substantial progress on e-conveyancing. But existing powers do not seem sufficient to support later stages of the proposed programme, such as compulsory e-lodgement of applications and other information and removal of the need for transfers and conveyancing by Deed.

It may be possible to keep the length of the Bill within reasonable bounds by providing for enabling powers to do things in secondary legislation rather than including detailed provisions in the main Bill.

4.11 Timetable and Bill Team

The Government has still to announce its intentions as to the proposed Bill and its timing. The schedule in Box 4.5 makes the working assumption that it will be introduced in November 2001 and receive the Royal Assent in July 2002.

If the Bill does proceed to this timetable, the period of advance consultation would need to begin as early in the summer as practicable.

The introduction and implementation of new legislation on the lines described will be an enormous task.

The Law Commissioner responsible for property and trust law and the senior Parliamentary Counsel at the Law Commission have so far borne the brunt of the work on the Bill, the consultative paper and other texts, in close consultation with senior lawyers at the Land Registry.

Whatever timetable the Government decides for the Bill, a larger Task Force, including a Bill Team and an Implementation Team, will be needed:

- to support Ministers in securing passage of the Bill through Parliament
- to draft the supporting documents
- to draft the related regulations and rules
- to advise as necessary on the preparation of revised practice material.

A provisional Bill Team might preferably be identified as soon as possible so that work may proceed at full speed as soon as the signal is given.

There are certain recommendations in the present Report which, if accepted, will need to be included in the Bill. It would seem important to consider these aspects as soon as possible so as to avoid delays later.

4.12 Management of change

Apart from the work of the Bill Team, the challenges for staff generally will be very great. The legislation will affect most aspects of what the Registry does. The changes in legislation will, moreover, coincide with a crescendo of activity on the introduction of e-conveyancing.

The Registry will therefore need to put together a change management programme in good time. Three particular needs will be:

- new practice materials
- a special programme of education and training for staff and
- another special programme for other stakeholders, notably conveyancers and lenders.

I suggest in later Chapters that the Registry should launch a new education service not later than December 2001 to devise and implement these special programmes.

BOX 4.1
LAND REGISTRY'S AIM, OBJECTIVES AND PRINCIPLES
(as published in July 2000 in the Annual Report and Accounts)

Aim

To maintain and develop stable and effective land information systems for England and Wales

Objectives

1. To maintain and develop a stable and effective land registration system throughout England and Wales as the cornerstone for the creation and free movement of interests in land
2. On behalf of the Government to guarantee title to registered estates and interests in land for the whole of England and Wales
3. To improve ready access to up to date and guaranteed land information, so enabling confident dealings in property and security of title
4. To provide a Land Charges and Agricultural Credits service

Principles

In achieving these objectives we will:

1. Achieve progressively improving performance targets set by the Lord Chancellor so that high quality services are delivered promptly and at lower cost to users
2. Develop plans to take forward the completion of the land register for England and Wales and the establishment of a National Land Information Service
3. Observe the key principles of the "Service First" initiative, as embodied in the Land Registry's Statement of "Service First" standards
4. Explore the possibility of securing better value for money through private sector partnerships in the computer mapping and title plan / deed scanning programmes
5. Facilitate the resolution of disputes and of claims under the State guarantee as economically and expeditiously as possible
6. Ensure that staff have the knowledge, skills and motivation to achieve what is asked of them and derive satisfaction from their jobs; and that they work in an environment in which personal development is encouraged and they can give of their best
7. Develop and operate secure and resilient information technology systems and services
8. Make the best use of physical resources

EXTRACT FROM "OUR FUTURE", MAY 2000

Our primary aim, to maintain and develop stable and effective land registration and land information systems for England and Wales, will remain at the heart of all we do in the future

BOX 4.2
STATEMENTS FROM HM LAND REGISTRY'S STATEMENT OF SERVICE
STANDARDS, JULY 2000

Our vision

We strive to be recognised as the most professional, efficient and courteous public service organisation in the United Kingdom

Our mission

We will build on our reputation as a highly successful executive agency to become a world-class provider of land registration services and information – an organisation which continuously strives to improve the quality of its service to customers; which brings together the best aspects of public service and which facilitates commerce by providing the confidence and security necessary for a stable market economy.

What does the Land Registry do?

Our principal aims are to:

- Maintain and develop a stable, uniform and efficient land registration system
- Guarantee title to registered estates and interests in land on behalf of the Crown
- Provide easy access to up-to-date and guaranteed land information
- Provide a Land Charges and Agricultural Credits service.

POSSIBLE ALTERNATIVE VERSION OF THE “VISION” AND “MISSION”

Our mission of service

We wish:

- to be the most professional, efficient and courteous public service organisation in the United Kingdom,
- to be a world-class provider of land registration services and information,
- to provide confidence and security in the ownership of land and property assets,
- to bring together the best aspects of public service and private sector management, and
- to be second to none in the quality of our service to customers

BOX 4.3

A POSSIBLE NEW STATEMENT OF STRATEGIC AIMS AND OBJECTIVES

Strategic aim

For the benefit of all who have interests or transactions in land and property, and in co-operation with others, to develop, promote and maintain world-class systems for guaranteeing ownership of land and for buying, selling, leasing and mortgaging of property in England and Wales, within a framework of transparent land and property markets

Strategic objectives

1. To prepare and promote *new world-class legislation* providing for improved national systems for land registration, guaranteed ownership, transfers, leases and mortgages, including use of e-technologies, and opening the way to ownership and transfers by registration rather than registration of ownership and transfers from Sept 2005
2. To create a *Register with comprehensive national coverage* of freehold titles and enhanced mapping (by 2010), including new leases over 3 years (from June 2003) and fuller details of owners, leases, mortgages, other interests and prices (from Oct 2003)
3. To make the Land and Land Charges Registers *fully electronic and accessible electronically* (texts, scanned title plans and supporting documents by June 2003, index map by June 2004, digitised title plans by 2010) and to promote, through a new structure with other public sector providers in partnership with the private sector, the one-stop *National Land Information Service*, available online to all, coupling information on the Land Register with other information relevant to users, especially buyers and sellers
4. To introduce “*e-conveyancing*” facilities of *e-lodgement* for changes in the Register (optional Jan 2003, possibly obligatory Jan 2004), *electronic certificates and deeds* (Jan 2003), and if possible *electronic settlements at completion* (Jan 2004 / Jan 2005), and to *re-engineer the national systems* for land and property transactions (transfers by registration and streamlined pre-contract stage from Sept 2005) with the help of a *Joint Property Market Charter and Forum* with other service providers (May 2002)
5. To promote with others *transparent and well-functioning markets* in land, property and mortgages, through fuller disclosure on the Register of financial information on leases and mortgages (Oct 2003) and monthly publication jointly with the VOA and others of much enhanced national, regional and district data for the property markets (Oct 2003)
6. To provide (by Jan 2003) a fully independent *adjudication service* in the Land Registry
7. To launch *education and publications units* (Dec 2001) and self-financing *advisory services* for international consultancy, registration and title issues, and title plan preparation (Jan 2002), and for lay-conveyancers and historical research (Jan 2003)

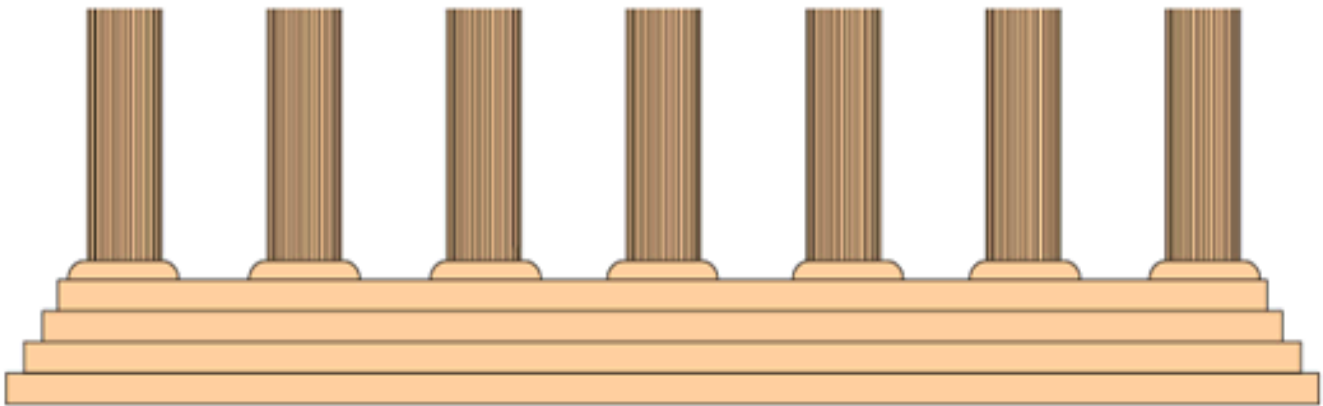
On-going tasks and targets

1. To provide constantly improving Land Charges, Bankruptcy Index and Agricultural Credits services as long as needed
2. To meet challenging targets set by the Lord Chancellor for quality, timeliness and costs
3. To deliver the Registry’s “Service First” standards for customer service
4. To facilitate fair and speedy resolution of disputes and of claims under the State guarantee
5. To set and achieve the highest standards in personnel, finance and information systems and services and make best use of physical resources

BOX 4.4
THE SEVEN PILLARS



World-class legislation	Comprehensive Register coverage	Fully Computerised Register and one-stop electronic searches	e-conveyancing, Property Market Charter & World-class Transaction systems	Transparent Property markets	Independent Adjudication	Extended public Services: Education Publications Advisory
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BOX 4.5
PROVISIONAL TIMETABLE FOR THE PROPOSED STRATEGIC
PROGRAMME

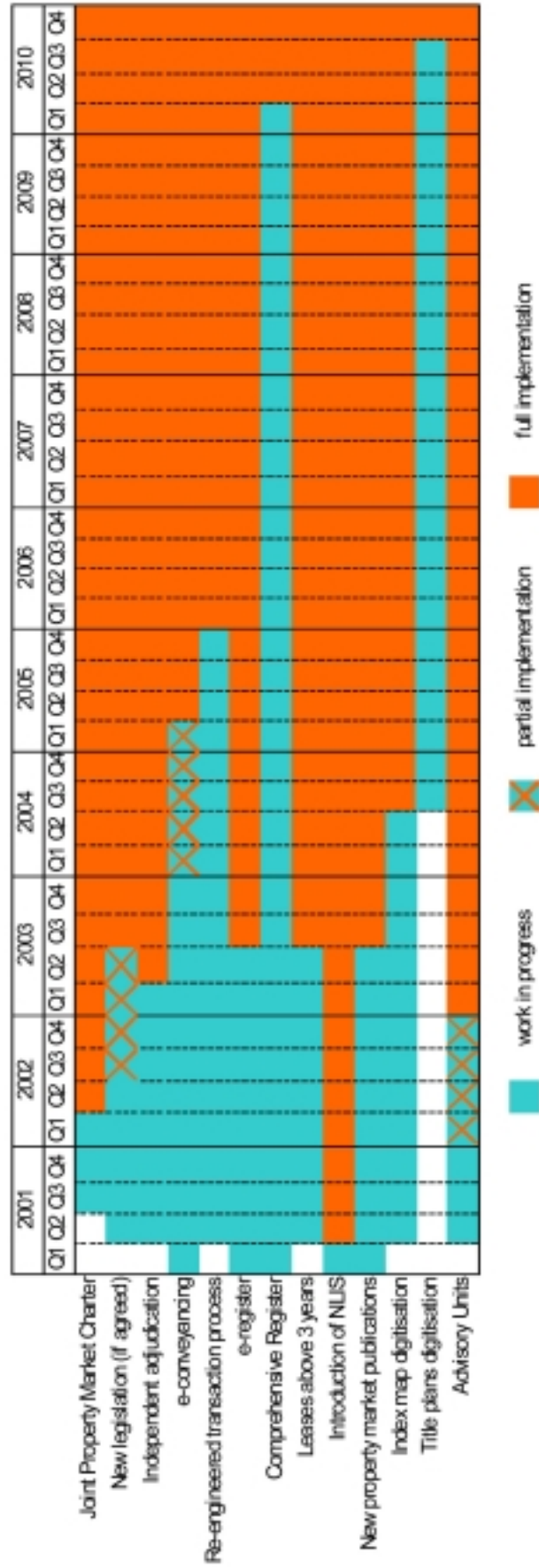
Actual or target date	<i>New legislation, regulations, practice notes etc (based on the timetable assumed in section 4.10)</i>	<i>Strategic programme, including extension, completion and electronification of the Register, electronic access and e-conveyancing</i>
2000		
June		LR Direct service begins
2001		
January		Establish Inter-Departmental Steering Committee and Task Force for e-conveyancing, plus wider groups involving other main stakeholders
February		NLIS service begins
April	Identify provisional Bill Team	Quinquennial Review Report published
May / June	Publish draft Land Registration Bill for consultation	Reform of LGIH Corporate Vehicle Begin vectorisation of Index Map Consultation paper on e-conveyancing
July / August	Responses to consultation on LR Bill	Ministers invite co-providers to work together on a Joint Charter for house buying and selling
November	LR Bill assumed to be introduced	Deadline for responses to consultation on e-conveyancing
December		Set up Education Service with special focus on the new legislation and e-conveyancing and Statistics & Publications Unit
2002		
January		Launch LRAS self-financing advisory services on international consultancy, specialist issues of registration and title, and title plan preparation

February		<p>Publish firm proposals for e-Register and e-conveyancing</p> <p>Issue Invitations to Tender for private partners for e-lodgement</p>
May		<p>Joint Charter by housing market providers takes effect</p> <p>Facilities available for holding land and charge certificates in e-form</p>
July	<p>Royal Assent to Bill assumed</p> <p>Publish Draft Rules and Practice Notes</p>	<p>Intensive training of staff and co-providers</p>
September-December		<p>Appoint private sector partner for e-lodgement</p> <p>Corporate vehicle to let e-settlements contract, if agreed, established</p>
2003		
January	<p>Ministers approve new Rules under new Act</p>	<p>Electronic delivery of applications for registration of transfers etc available</p> <p>Launch Land Registry's independent Adjudication Service</p> <p>Launch advisory units for lay-conveyancers and historical and genealogical research</p>
June	<p>LR Act and specified Rules take effect</p>	<p>Ownership and transfers by registration take effect</p> <p>Require registration of leases with 3 years or more to run</p> <p>All Register entries available electronically or in scanned form</p>
July		<p>Let e-settlements contract</p> <p>Launch publication of new Property Market Statistics (joint production with VOA) including information on property types, floor areas, regions and leases as well as sale prices</p>

October		Subject to agreement and statutory basis, launch requirement for owners to disclose true or beneficial ownership of property where this differs from nominal ownership
2004		
January	Remaining Rules take effect	Electronic delivery of applications possibly compulsory e-settlements facility available
June		Index Map fully digitised Digitisation of stock of title plans begins
2005		
January		e-settlements possibly compulsory
September		Re-engineered buying and selling processes take effect
2006		
2007		
December		Register covers all land and properties likely to be the subject of transactions
2008		
2009		
2010		Register achieves complete national coverage Vast majority of title plans digitised

BOX 4.6

THE STRATEGIC PROGRAMME:
A SUGGESTED IMPLEMENTATION SCHEDULE



BOX 4.7
LAND REGISTRY WORKLOAD AND STAFFING, 1989-90 TO 1999-2000



BOX 4.8
LAND REGISTRY STAFFING PROJECTIONS OVER PERIOD TO 2010

Numbers of staff (full-time equivalents including overtime) at mid-year												
	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	2009/2010		
On-going activities baseline												
Operational Processing		7114										
Personnel, pay, superannuation & training (exc LTOs)		279										
Finance staff		45										
IT Departments		360										
Development work (non IT)		59										
Centralised functions		551										
HQ other		185										
TOTAL baseline staff years (inc overtime)	8484	8593	8635	8681	8916	9167	9433	9706	9998	10307		
<i>before savings</i>												
Savings foreseen												
Infrastructure Projects	769	996	1114	1121	1121	1121	1121	1121	1121	1121	1121	1121
Further operational savings to be identified					89	181	275	372	472	575		
Reduction in operational processing due to e-con			377	636	827	1083	1116	1149	1184	1219		
Personnel, pay, superannuation & training		56	100	100	100	100	100	100	100	100	100	100
End of Blue Card Register conversion				104	208	208	208	208	208	208	208	208
TOTAL staff savings (gross)	769	1052	1591	1961	2345	2693	2820	2950	3085	3223		
Net staff requirements before development programmes												
	7715	7541	7044	6720	6571	6474	6613	6756	6913	7084		
Additional requirements for development programmes												
Vectorisation of the Index Map, June 2001 to June 2004		87	222	222	72							
Complete current work in progress		300										
Vectorisation of Title Plans, June 2004 to June 2011					270	480	480	480	480	480		
Complete Register by 2010 #		252	572	752	782	802	702	572	432	252		
Register new leases 3 years plus #			80	80	80	80	80	80	80	80		
Additional workload generated by # above			86	89	94	98	103	108	113	119		
Land Registry Advisory Services			12	12	12	12	12	12	12	12		
Education services			10	10	10	10	10	10	10	10		
Additional IT requirement (inc e-con)			34	49	59	63	65	67	69	71		
Implementation of LR Bill		12	30									
e-con front end support & QA			96	236	236	188	146	136	120	120		
e-con implementation team		10	15	30	35	15	15	8				
TOTAL additional requirements		661	1157	1480	1650	1748	1613	1473	1316	1143		
TOTAL staff requirement	8243	8202	8201	8200	8220	8222	8226	8229	8229	8227		
<i>(actual for mid year 2000/01)</i>												
Memorandum Item:												
Projected staff average mid year 2001/02		7797										
<i>(Full-time equivalents excluding overtime)</i>												

NOTES TO ACCOMPANY LAND REGISTRY STAFFING PROJECTIONS

1. *Baseline.* The baseline projections indicate what staffing levels the Registry would expect to need to meet the expected demand for services *before* allowing for further productivity gains or new policies to extend coverage of the Register. Unit intakes corresponding to present titles and policies are projected to rise by approximately 3% a year, in line with current growth in the Register population, and searches etc by 7% a year. No allowance is made for future property market booms or recessions or future trends in borrowing.
2. *Savings foreseen.* The present re-engineering of operational processes is projected to reduce the baseline requirements by more than 1,000 staff. The introduction of e-conveyancing is projected to produce savings rising over four years to a similar, or even greater, level. Other processing improvements are assumed to yield further savings of up to 1 per cent a year cumulative from 2003-04. Allowance is also made for some savings in personnel divisions and for completion of the Blue Card Register conversion project.
3. *Additional requirements for development programmes.* The projections indicate the numbers of FTE staff likely to be required to deliver the major strategic programmes discussed in Chapters 4 to 10 within the timetable indicated in Chapter 4.
4. *Index Map and File plan projects.* The staff requirements for Index Map vectorisation are as projected in the agreed business plan. When this project ends many of the staff are assumed to transfer to the project for vectorising title plans by 2010 or 2011.
5. *Completing the Register.* The projected requirements for extra staff, beyond those already handling first registrations, assume that (a) there will be 5.2 million further titles to be registered by the spring of 2010 and (b) staff members will on average process 2 1/2 titles per day. These assumptions are more than usually uncertain and will need to be reviewed against experience. It may even be possible to complete the Register some months *before* spring 2010. But many of the remaining registrations are expected to be complex.
6. *Registration of new leases above three years.* The projections assume that 45,000 more dispositional first leases will be lodged per year when the cut-off period is lowered from 21 to 3 years. This estimate is necessarily tentative. Commercial leasing is susceptible to changing economic climates. Staff are again assumed to process 2 1/2 applications a day.
7. *Additional workload from larger Register.* The Dealings workload is not expected to increase markedly. Properties not yet registered are unlikely to change hands often (or they would have been registered already). The average term for commercial leases is 15 years. So the registration of extra leases is unlikely to generate many extra dealings during the period considered. Most extra dealings are anyway likely to be lodged in e-form. Allowance is made, however, for more Index Map Searches to facilitate new First Registrations and Searches of Part and for some increase in correspondence and enquiries. The additional workload has been tentatively projected at just under 1% of projected workload before this addition in 2002-03 rising to just over 1.15% by 2009-10.
8. *Requirements not covered by projections.* No allowance has been made for registration of beneficial ownership (likely to be staff-intensive for a short period), title plan overlay facilities (probably not staff-intensive once set up) or the main work of Land Registry Advisory Services (assumed to be mainly staffed by part-time former employees). But it should be possible to accommodate these programmes by phasing the Register completion and title plan vectorisation programmes over a slightly longer period.
9. *Current year staff requirements.* The 6.3 per cent excess over projected levels in the total staff requirement for 2000-01 reflects an excess of 8.3 per cent over projected workload.

BOX 4.9

POSSIBLE ELEMENTS FOR THE NEW LAND REGISTRATION BILL

- Ownership and transfers by registration in due course rather than registration of ownership and transfers, with repeal of requirement for transfers by Deeds of Transfer or Conveyancing
- Powers to compel complete geographical coverage of the Register and extend other coverage
- Powers to freeze the Register in place of present priority periods
- Clarification and updating of the Registry's guarantee and indemnity powers and obligations, in relation to the various classes of title and categories of holding
- Coverage in the Register of leases and mortgages
- Updating of provisions on notices and cautions, covenants and implied covenants
- Increasing registration of interests so as to minimise overriding interests
- The position on Crown Land, classes of title, land of uncertain ownership, and adverse possession to be clarified and updated, with increased protection for owners of land against adverse possession
- e-lodgement, optional at first but perhaps compulsory later, of applications for registration of new titles or owners, new charges or discharges, and other Register changes
- Powers to validate (and even require) certificates, deeds, contracts and other transactions to be executed in electronic form
- The Land Registry to promote transparent property markets, including powers to require information and a duty to publish national and regional market data
- The Land Registry to have the necessary powers to develop, with or without public or private sector partners, land and property services such as electronic information, conveyancing and payments services, including powers to set up or participate in suitable corporate vehicles
- Similar powers to license or contract with others to promote an effective and efficient system
- Within the Land Registry, separation of the adjudication role under a new statutory post of Chief Adjudicator
- Again within the Registry, provision of education, publication and advisory services
- Flexible fee structures
- General powers to develop the Land Registry's role, functions, practices, transactions and services with the help of secondary legislation (including power to vectorise title plans)

BOX 4.10
POSSIBLE ELEMENTS FOR INCLUSION IN OTHER BILLS

1. Provision for commonhold (already before Parliament)
2. Land Registry to have (a) power to require disclosure of true or beneficial ownership where this differs from registered ownership and (b) duty to note this on the Register unless Chief Land Registrar grants dispensation
3. Lying to the Land Registry about personal identity possibly to be an offence
4. A power and duty to share information with law enforcement and regulatory bodies and others, within the constraints of Human Rights and Data Protection legislation
5. Revisiting of present limitation to four joint owners of a property
6. Power to transfer responsibility for bankruptcy index to Insolvency Service
7. Possibly amend Trading Funds Act to permit establishment of corporate vehicles

5 STRATEGY: COMPLETING, EXTENDING AND UPGRADING THE REGISTER

5.1 Coverage of Register

The present Chapter discusses a strategy for improving the coverage and quality of the Register based on the pillar 2 Strategic Objective in Box 4.3:

To create a Register with comprehensive national coverage of freehold titles and enhanced mapping (by 2010), including new leases over 3 years (from June 2003) and fuller details of owners, leases, mortgages, other interests and prices (from Oct 2003)

The Chapter deals in turn with the following issues:

- i. completing geographical coverage of the Register
- ii. a proposed requirement to disclose true or beneficial ownership
- iii. registration of all new or assigned leases with three years or more to run
- iv. standard information requirements for leases
- v. property types and floor areas
- vi. further details of mortgages
- vii. points raised by the Law Society and others.

5.2 Geographical coverage

(a) The case for completion

The great advances of the last century notwithstanding, the Land Register is believed to be still some 20 to 25 per cent short of complete coverage in terms of titles registered.

Titles registered so far are about 17.8 million. The total is thought likely to rise to around 23 million on completion, though the precise number will remain uncertain until the job is done.

There is general agreement that the Register should sooner or later, and preferably sooner rather than later, achieve complete geographical coverage. Responses to the Consultation Paper of 1992, *Completing the Land Register in England and Wales*, confirmed the strength of the support for this, as did the Lenders, Surveyors and Conveyancers consulted in the present Review.

The arguments in favour of complete geographical coverage are compelling:

- In general it is not satisfactory to have two national systems of land ownership running side by side
- It will be even less satisfactory in a world of e-conveyancing if as part of this the Land Registry takes on the task of monitoring and making transparent the extent of “chains” of sales and purchases and the identities of all the buyers and sellers involved

- Transparency about ownership and other legal interests is no less desirable for land presently unregistered than for registered land
- Professional expertise in ownership of, and transactions in, unregistered land is rapidly disappearing
- Particular problems may and do arise with regard to boundaries between registered and unregistered land
- The incomplete coverage of the Register detracts from attempts to link and co-ordinate Land Registry data with other data sets such as those of Local Authorities, the Valuation Office and Ordnance Survey
- It also detracts in some degree from the quality of economy-wide Register-based statistics on prices, rents, mortgages etc
- In relation to charges of all kinds, including bankruptcy orders as well as mortgages, it would be far better to have one comprehensive Register rather than two Registers and two indices, not managing to achieve full national coverage between them
- In relation to combating economic crime and money laundering, a single and comprehensive Register and Index of Owners, including disclosure of true or beneficial ownership (see below), would be an enormous improvement.

(b) Statutory powers

If the Register is to be completed, the Land Registry will need a more general power to *require* registration of properties, if necessary. Such powers would go somewhat beyond the present provisions requiring registration where there are transactions affecting properties.

Some owners would doubtless dislike this extension of compulsory registration. They may prefer to keep their ownership of property, or of particular properties, secret. Or they may resent paying the registration fees.

In successive Acts, however, Parliament has decided that ownership of property should be in the public domain. The policy has clearly been to extend the requirement progressively until a comprehensive Register is achieved. There seems no justification for allowing the very small minority of owners whose properties are neither registered nor the subject of transactions to preserve this secrecy indefinitely and so prevent full national coverage of the Register.

There are, however, issues of timing and priority that need to be addressed.

(c) Target date for completion

On timing, the Land Registry's present stance is in effect to journey in hope. While the ultimate goal is agreed, there is no plan for when it should be achieved.

A better approach in my opinion, in this as in many other areas, would be to set a target date for delivering the agreed goal, with due regard to the practicalities, and then to allocate the number of staff likely to be required.

As suggested in Chapter 4, a reasonable target at this stage, in my opinion, would be to complete geographical coverage of the Register by the spring of 2010.

In setting a target date, the main constraint is the amount of staff work involved. Completion of the Register will be a highly resource-intensive task, calling for many days of labour by relatively skilled and experienced staff. The Land Registry cannot take on obligations to guarantee new registered titles without first investigating in some depth whether the titles are valid and the extents correctly represented. This in turn may often require extensive study of considerable piles of documents and in some cases site surveys as well.

As discussed in Chapter 4, quantifying the amount of work involved is somewhat hazardous. There is no certainty as to how many unregistered titles there will turn out to be or how quickly staff will be able, on average, to process them.

In practice, the Registry's present staffing on first registrations should suffice to deliver a significant proportion of the remaining titles over the next 8 or 9 years. The *extra* FTE staff required are likely to be of the order of 600 a year on average over the period.

There are fears that the last 5 million cases will on the whole be more complicated than cases already registered. Hence Chapter 4 made the cautious assumption that individual staff will be able to register on average only 2 ½ new titles a day. A certain margin for contingencies has also been included.

It may also be that simpler forms of registration, giving lesser guarantees and requiring less working time, may be suitable for some of the categories of land still unregistered, especially categories not likely to be the subject of transactions. In that case, the numbers of staff needed could be somewhat smaller.

We concluded accordingly in Chapter 4 that the Registry might reasonably plan to allocate an extra 600 FTE staff on average to this programme in the period between 2002 and early 2010 in addition to staff already working on first registrations. With these extra resources, there is a good prospect of completing the Register's geographical coverage by the spring of 2010.

Box 5.1 offers a visual image of the proposed completion programme.

(d) *Priorities*

With regard to priorities on the journey from today's coverage to full geographical coverage, some possibilities are:

- The present obligation in the Land Registration Act 1925 as amended by the Land Registration Act 1997 to register properties which are the subject of transactions would continue

- A similar obligation might be considered for properties newly entered on the Land Charges Register. This could mean phasing out the Land Charges Register in its present form, while retaining a Temporary Haven (or Purgatory) Register for properties subject to charges where the registration process has not yet been completed. But information held on the Land Charges Register would need to be retained and the practicalities would need to be carefully investigated
- The pace of registration of major landowners (Local Authorities, Ministry of Defence, churches etc) would be determined by negotiation, as now
- As between property types, priority would be given to properties where there is a realistic prospect of transactions taking place (for example, dwellings, offices, warehouses and factories as against mountains, moors, rivers, commons, roads and railways).

These, however, are not the only possibilities. The Registry will need to establish, in consultation with others, a sensible classification and priority for bringing all remaining land on to the Register. Categories of land will need to be defined unambiguously so that the Lord Chancellor can make the necessary orders under the proposed new Land Registration Act.

5.3 Beneficial ownership

(a) Present position

Registered owners of land and property are under no obligation at present to enter their true names on the Register. Land and properties can be registered under any name that the owner chooses. Unless an intention to defraud can be proved, owners commit no offence if they register a name designed to hide rather than reveal who they are, for example:

- a *false name* or *nom de plume*,
- the name of a *private company*, incorporated in the UK or overseas jurisdictions where private companies are under no obligation to declare their true or beneficial ownership, or
- the name of a *trust*, set up under the law of any jurisdiction the settlor may specify, where once again there will typically be no obligation to reveal the true or beneficial ownership.

(b) The case for public disclosure

The ability of owners to register land and property under names which conceal rather than reveal who they are flies in the face of the principle which Parliament established in the Land Registration Act 1988. That Act opened the Land Register to public inspection from 2 December 1990. Parliament clearly intended that the ownership and extent of all properties should be in the public domain.

In these days when economic crime and money laundering have become major issues for the world economy and society, and when property assets are a significant vehicle

for holding the proceeds of crime, the fact that the Registry neither records on the Register nor knows who the true owners of property are becomes ever harder to defend.

There must be a strong case, therefore, for including in the Register details of the true or beneficial owners of registered properties where these differ from the nominal owners.

Current money laundering legislation requires solicitors carrying out regulated financial business to verify the identity of their clients. Perhaps surprisingly, however, this requirement does not extend to conveyancing transactions.

The disclosure of such information on the Register, and the index of true or beneficial property owners that the Land Registry could compile from it, would be invaluable for law enforcement, regulatory and tax authorities, as would similar information on ownership of private companies. Without such information, the transparency of land registration must always be seriously qualified.

The existence of the requirement would itself do something to deter the unscrupulous from putting the proceeds of crime into property assets.

A requirement to register beneficial ownership should also be helpful in tracing bankrupt persons and combating mortgage fraud. Without it, the tracking of properties or charges on property owned by persons who are the object of bankruptcy petitions or orders must remain seriously deficient.

(c) *Confidential disclosure*

The Registry could alternatively require registered owners to disclose true or beneficial ownership in confidence without placing the information on the public Register.

Full public disclosure (with provision for exceptions in deserving cases as suggested below) would however seem more in accordance with best modern practice in other areas and with the spirit of the existing legislation. A regime of confidential disclosure would positively invite owners to devise ways of concealing their identities on the public Register.

(d) *Objections to public disclosure*

There are several objections which any proposal for public disclosure may encounter.

First, some might argue that it would *reduce personal privacy* and conflict with the spirit, if not the letter, of human rights and data protection legislation.

In this as in other areas, however, a balance has to be struck between privacy and transparency. In striking the balance, moreover, it is necessary to bear two particular considerations in mind:

- As discussed above, Parliament has clearly willed on several occasions that ownership of the national resources of land should be transparent, not secret.

- Within the population of property owners wishing to hide their identities, criminals anxious to disguise or launder the proceeds of crime are certain to be an important category. If public policy emphasises privacy above transparency, therefore, the greatest beneficiaries are likely to be criminals.

With regard to human rights and privacy legislation, the proposed provisions would clearly need to be framed in a way that did not conflict with such legislation. These other important areas of legislation are not, however, intended to preclude legitimate public policies for transparency, still less to help criminals.

Second, some people might feel that their *personal security* would be threatened if the public generally were more readily able, as a result of this change, to find out where they live. Prominent politicians or persons needing police protection might be cases in point.

The best solution to this problem, in my opinion, would be to have an alternative regime in cases where the Law Enforcement or other relevant authorities advise that publication of the information would significantly increase the hazards to the owners concerned. In such cases, the Chief Land Registrar might be empowered:

- to maintain a confidential record of true or beneficial ownership, rather than place it on the public Register;
- to exclude the names of such persons from any *published* Index of property owners (including beneficial owners) while including them in a complete internal Index. In practice the Registry's Index of Proprietors is not publicly available at present;
- in exceptionally sensitive cases, to waive the requirement for disclosure of beneficial ownership altogether, again on advice from the appropriate authorities.

A third possible objection is that registered owners might *evade* the proposed requirement by lying about their true identity or failing to declare it.

That is certainly possible. But registered owners would need in practice to deceive their conveyancers as well. Some owners might manage to fake their identity even so. But they would have committed an offence by making a false declaration to the Land Registry. This might give the Law Enforcement authorities an option to bring charges where they would otherwise have found it difficult to do so.

A fourth possible objection is that it is inconsistent to require declarations of beneficial ownership and proof of identity for ownership of *registered but not unregistered* land holdings. It might even deter criminals from registering their land at all.

The risk is perhaps less serious, however, than this suggests. Major criminals generally prefer to appear respectable. The solution, clearly, is to move as fast as possible to a Register with comprehensive coverage, as proposed in section 5.2, including powers of compulsory registration.

A fifth possible objection is that the UK does not require *companies*, in particular private companies, to declare true or beneficial ownership to the company registrars at Companies House. What is the point of placing the proposed requirement on property owners but not on companies, which are at least equally valuable as vehicles for money laundering?

The answer to this is that two wrongs do not make a right. The Government has, moreover, recently commissioned a Regulatory Impact Assessment of the costs and benefits of introducing a requirement for private companies to declare beneficial ownership.

A final possible objection is that extra *regulatory burdens* of this kind should be avoided. As with companies, however, this is in my opinion a pure excuse. The extra burden involved for property owners, as for companies, in having to declare the true or beneficial owner, and to provide proof of identity, is minuscule.

(e) *Statutory provisions*

The proposed requirement for disclosure of beneficial ownership would require some new statutory provisions. The Land Registry would need:

- powers to require the owners or prospective owners of registered properties to disclose the true or beneficial owner where this differs from the legal or declared owner recorded on the Register, and
- a duty in such cases to *note* the true or beneficial owner on the Register, unless the Chief Land Registrar on advice from the relevant authorities decides to waive the requirement.

The proposed new Land Registration Bill, or Rules made under it, would seem at first sight the natural place to make such provisions. There would not appear to be any problem of scope. As discussed below, however, the formulation of the proposed requirement would require careful consideration. If the Government decides on an early timetable for introduction of the proposed Bill, therefore, there might not be time to complete the necessary preparatory work and consultations.

An alternative legislative vehicle might be the new Proceeds of Crime Bill which the Government has recently announced. But the proposed requirement would be outside the scope of this Bill as presently conceived. And the same problems on timing would arise with this vehicle as well.

A third option, perhaps the most promising, might be for the Government (assuming of course that it is so minded) to seek statutory authority for requiring declarations of true or beneficial ownership of property *and* of private companies alongside each other, either in a single legislative vehicle or in parallel vehicles.

(f) *Form of Register entries*

The ownership section of the Register, known as the Proprietorship Register, would continue as now to record legal ownership of the property. The proposal would not, therefore, carry any wider implications for the basis of land, property and trust law.

The Proprietorship Register would however carry an additional entry. This might take the form of a notice in one or other of the two following forms:

“The registered owners have declared that they are also the true, ultimate and beneficial owners and that the names recorded on the Register are their true names.”

“The registered owners have declared that the true name of the true, ultimate or beneficial owner is [Mr Tobias Smith].”

Alternatively, and probably better, the Register could include only the second category of notice illustrated above. In other words, it could include a notice only in cases where the legal owners have identified others as being the true, ultimate or beneficial owners. A standard note or caption on the Register, and in any accompanying material, could state that in the absence of any such notice the legal owners may be assumed to have declared that they are also the true, ultimate or beneficial owners.

With notices framed in this way, the Registry would not be guaranteeing the truth or falsehood of the owners’ disclosure. It would seem risky to provide such a guarantee.

Different forms of words would be likely to be needed for certain categories of owner.

(g) Some practical issues

In any programme involving declarations of true, ultimate or beneficial ownership, there are some practical issues that would need to be resolved.

In the majority of cases, the matter would probably be straightforward. But the authorities would need to provide clear guidance at the outset about the particular requirements in relation to

- express trusts, where the arrangements are sometimes highly complicated and involve private companies as well,
- implied trusts, for example involving spouses or lifetime tenancies or even business arrangements, and
- private companies, especially companies legally owned by express trusts.

There would similarly need to be clear guidance in relation to public bodies, public companies and charities. As noted above, different standard forms of declaration might be needed for particular categories.

The best strategy, in my opinion, would be to have some simple rules based on the principle of not allowing the best to be the enemy of the good. It would clearly be wrong, for example, to expect owners to declare implied trusts of which they were unaware. It would equally be wrong to allow persons who hold their wealth in private companies not to declare who they are.

(h) Timetable and modalities

The new requirement should preferably, in my opinion, be introduced as soon as practicable, possibly in 2003.

It would not seem right to introduce the requirement gradually, as properties change hands. Several decades would pass before anything approaching complete coverage would be achieved.

If the Government decides on this approach, the procedure for the Registry might be:

- to write to all existing registered owners requiring them to make a declaration in one or other of the forms in section (f) above; and
- to require such declarations in future by all new owners.

Alternatively, and perhaps better, the legal owners might be invited to take no action if they are also the true or beneficial owners.

A programme on these lines would be likely to be quite staff-intensive for a limited period. The staffing projections in Chapter 4 do not specifically allow for it. As discussed there, however, there should be scope for switching staff from first registrations into this programme for a limited period without jeopardising the programme for completing the Register.

5.4 Registration of new and assigned leases above three years

(a) Present position

The Land Registry's present regime, based on the Land Registration Act 1925 as supplemented and amended in 1986, requires that new leases, or assignment of existing unregistered leases, with more than 21 years to run, must be registered. The number of leases currently registered is just under 3 million (some 16.7 per cent of total live titles).

There is at present no option to register leases with 21 years or less still left to run. Box 5.2 sets out the position more fully.

The Government has recently introduced a Commonhold and Leasehold Bill. This deals with the registration as well as other aspects of commonholds. The Land Registry's intention is to require registration of

- (a) all commonhold companies at the time they are created (for example at the sale of new developments) and
- (b) each unit within the commonhold.

The rationale for the present limitations on registration of leases is not entirely clear. Historically, there have been several elements:

- The Land Register may possibly have been seen as being first and foremost a Register of freehold titles. Leases would then have been admitted for registration only in so far as they lasted for long periods and were therefore similar for most practical purposes to freehold titles.
- The need for guarantees of title may have been perceived as less compelling for leases with short lives and low values than for leases with long lives and higher values.
- Extending the Register of freeholds has generally been seen as commanding a higher priority than extending the coverage of leases.
- Not least important, probably, has been the practical consideration that the workload involved in registering shorter leases would be significant.

(b) *The case for registering more leases*

There is clearly a case for registering new and re-assigned leases more comprehensively than now happens. Under the present regime, many commercial leases are not registered at all. Members of the DETR's Property Advisory Group commended the case for extending registration of leases.

The case rests partly on the need, widely recognised, to make the Register as comprehensive as possible in terms of interests recorded so as to minimise the number of "overriding" interests not recorded. The more such unrecorded interests there are, the less valuable the Register must be. This has, indeed, been a significant theme in the Government's consultations on new land registration legislation.

The case rests also, and no less importantly, on *transparency*. In the leasing market as in other markets, transparency is greatly to be desired. Registration of more leases could be extremely helpful in this connection.

- At the *micro* level, it is important for all who contemplate transactions in individual properties to know with some security what leases and related covenants are attached to them. The Register of a property is significantly incomplete if it does not show the existence of leases on the property. This is an aspect of the point already made about minimising overriding interests.
- Still at the *micro* level, it would also be of considerable value for prospective purchasers of leases to know about the terms (especially the lengths and financial terms) of other recent leasehold transactions in the same area.
- At the *macro* level, the leasing market as a whole is among the country's most secretive and least transparent markets. It would be a great step forward to have reliable information about basic matters such as the number and length of leases and above all the financial terms of new leases of various lengths for particular types and sizes of property in particular areas.

(c) *A proposed new regime for registration of leases*

In my opinion, the Registry would best extend the coverage of leases by requiring that, from a specified future date, lessees (tenants) would be obliged to register all *new leases created, or existing leases assigned*, for periods greater than 3 years (as against the present 21 years).

The leases noted in the “C” Charges Register of the superior title would be extended in tandem.

From the point of view of promoting market transparency, there would be a case for limiting extension of the registration requirement to commercial leases. New and reassigned leases of domestic property for terms between 3 years and 21 years are believed not only to be rare but also generally to involve rack rents rather than payment of a premium. The gain in market transparency would not therefore be significant unless the whole of the rack-renting market were covered.

From the point of view of improving land registration, on the other hand, the benefits in extending the requirement of registration to *all* new or reassigned leases for periods above 3 years are considerable. Short leases are one of the major categories of “overriding” interests which affect registered land even though they are not mentioned on the Register of title. As discussed above, a major objective of the legislative proposals on which the Government has consulted is to reduce significantly the scope and numbers of such interests. The intention is to make the Register as complete and informative as possible so that almost all the rights and interests to which a property is subject can be discovered by inspecting it.

From an administrative of view, too, different requirements for domestic and commercial leases would be unwelcome. Past experience suggests that introducing such a distinction would greatly increase the number of incorrect applications.

With regard to the length of leases to be registered, there are two particular reasons for proposing the 3-year cut-off rather than some longer period such as 7 years:

- i. Under the Law of Property Act 1925, sections 52 and 54, leases for periods above 3 years have to be granted by deed. Leases for periods not exceeding three years, on the other hand, do not. They can even be made orally.
- ii. Comprehensive data would give a stronger indication of any trend towards leases for short periods, an area of particular interest in the context of market transparency. New or assigned commercial leases with between 3 and 7 years to run are no longer uncommon.

A more radical alternative than that suggested here would be to attempt registration of *all existing unregistered leases*, as against new or newly assigned leases. The number involved could, however, be very great. In addition, the more limited proposal to require registration of new or newly assigned leases has the merit that these are the leases currently being traded. In relation to market transparency, therefore, these are the critical categories.

Any project for registration of all existing leases as well might better, therefore, be left for the period from 2011 onwards. By then, all being well, Register coverage of

freeholds will be complete (see section 5.2 above) and the stock of unregistered leases will have fallen substantially.

(d) Standard cover page for applications for registration

Whatever option may be chosen, there would seem a strong case for making individual leasehold transactions simpler and more transparent, for the benefit of both the ultimate clients and the Registry. Leasehold agreements tend to be complicated. Extracting the basic details from them is challenging and time-consuming.

To that end, the Registry could require lessees (tenants) when applying for registration of new or re-assigned leases, or more commonly their professional representatives, to state the main terms of the lease not included in the application form on a standard single summary page ultimately capable of electronic transmission.

The items to be covered might be as in the accompanying Box 5.3. All the items proposed are important in terms of customer protection and transparency. For the most part, these items are already incorporated into entries on the Register of title.

In especially complicated leases, the entries on the summary page could cross-refer to the relevant clauses in the main lease agreement.

(e) Transparency

As implied above, the leasing market in England and Wales is one of the most obscure and least transparent of all markets. The market suffers not just from a dearth of information about the terms on which leases are concluded but also from the difficulties of interpreting any information that *is* available.

This is a most undesirable state of affairs. In the absence of good information, readily available, about the market generally and in particular localities, there is scope for unscrupulous lessors to exploit the ignorance of badly informed lessees.

In my opinion, there is much that the Registry could and should do, in close co-operation with the Inland Revenue's Valuation Office Agency, DETR, ONS and others, to make this market more transparent, in accordance with the pillar 5 strategic objective in Chapter 4.

At the micro level, a significant need is to publish on the Register, for the wider coverage of leases proposed, the information in the application forms and summary cover sheet already discussed (see Box 5.3) so that agents and potential tenants may see on the Register leasing details of the properties in which they are interested and similar properties.

At the macro level, no less importantly, the Registry and the Valuation Office between them need in my opinion to improve the published statistical information on the leasing market until it more nearly approaches the standard of published information available on the freehold market. As discussed in Chapter 10, the Departments concerned need to co-operate in improving published information on the latter market as well.

(f) *Difficulties in leasing market transparency*

A particular problem with leases is the difficulty of measuring what is happening in the market as a whole, and the related difficulty of comparing individual leases with each other and with market trends, when there are so many variables.

For freehold properties, it is relatively straightforward, in principle at least, to assemble information in such a way that the user can see what prices have recently been paid for properties of particular types with particular floor areas in particular areas, and how these prices compare with prices in other areas and other recent periods.

It is likewise possible, in principle at least, to aggregate these figures into national and regional indices for property price levels and changes. Chapter 10 discusses this further.

For leasehold properties, the matter is more complicated, essentially because the significance of the price or premium paid for the lease depends not just on the type of building, the floor area and the locality but also on other factors such as

- the term, or period of years, for which the lease runs,
- the annual rent or ground rent which the lessee has to pay,
- the rent review terms,
- the annual service charge which the lessee has to pay, and
- other obligations on the lessee which may result in expenditure, such as a covenant for a monetary contribution to repair the fabric of the building.

In contrast with the freehold market, the average price paid for new or re-assigned leases of properties with a given floor area in a particular locality does not provide a valid basis for comparisons with particular properties, other localities or leases of different terms.

(g) *Domestic leases*

To deal with this problem, the Registry and the Valuation Office need in my opinion to collect for publication whatever data they can so as to assist transparency.

With regard to longer term domestic leases (as against properties let on ground rents where information is more readily available from other sources), a high proportion of such leases, when first let, are for periods greatly exceeding 21 years, usually 99, 125 or 999 years. Both the Registry and the Valuation Office have relevant data whose value could be multiplied by being brought effectively together.

There should be scope, therefore, through a suitable marriage of Land Registry and Valuation Office data, to show, *for new domestic leases of each of these lengths*, and for particular kinds of dwelling (such as detached, semi-detached, mid-terrace, end-terrace, bungalows and flats) in particular localities:

- the average price or premium paid per square metre,
- the average annual rent payable per square metre,
- the repairing obligations, and
- the average annual service charge per square metre.

It should likewise be possible to aggregate these into national and regional indices for these particular lengths of new domestic leases by property type. Age and basic quality provide another possible dimension of analysis.

(h) Commercial leases

With regard to commercial leases there is a similar, and arguably even greater, need for market transparency and information. Those who conduct transactions in the market need such information. In addition, the Valuation Office has an operational need to assemble and analyse information on commercial properties with a view to discharging its principal business function of assessing the rateable values of such properties for the national non-domestic rate (business rates).

In general, commercial leases are for shorter periods than domestic leases. But the terms are typically more complicated. Understandably, therefore, good information is hard to find and the commercial leasing market is perhaps the most opaque of all the property markets. The case for bringing transparency to this market is correspondingly strong.

In practice, the Valuation Office devotes considerable resources to analysing this market for the purposes of business rates assessments. As part of the rating valuation process, the Valuation Office adjusts rental transactions to common terms, broadly consistent with a modern commercial lease. The first step is to convert premiums paid, rent free periods and other variables into an annual rental equivalent. The rental equivalents are then analysed by property type, notably retail, offices, factories and warehouses, and by the relative proportions of “main” space, such as office space and sales space, to ancillary space. Further elements in the analysis are area postcodes and dates of construction.

With the help of such analysis, the Valuation Office can construct time series of annual rental equivalents for various types of commercial property per square metre in various locations as a basis for assessing rateable values and revaluations.

There are, however, two problems in the present state of affairs:

- First, the shortage of good raw information is a continuing concern. The Valuation Office has to use statutory powers to require information from a sample of businesses, most of which is contained in the legal instrument creating the interest. This is a less than satisfactory procedure which places considerable burdens on the businesses concerned.
- Second, neither the Valuation Office nor the Registry feel that the information they have is sufficiently robust to provide a basis for publication of market trends. Both the market and the business rating valuation process therefore lack transparency.

If the Registry extends registration of leases as proposed, to include all new or assigned leases with 3 years or more to run, the Registry and the Valuation Office, working together, should be able to solve these problems and in doing so to bring much-needed transparency to the leasing market and the valuation process.

The Valuation Office should be able to obtain much more comprehensive information as part of the registration process in ways less burdensome to businesses.

The Registry and the Valuation Office together should then be able to use the Valuation Office's analyses of the information to publish useful data about the leasing markets.

(i) Joint forms

In terms of administration, the key requirement would seem to be for the Registry and the Valuation Office to produce joint forms of application for registration and transfers for collecting information on freeholds and leases alike. All being well, the joint forms could replace the Valuation Office's present "Particulars Delivered" forms and (for the most part) their obligatory requisitions for information.

In the last years of the pre-electronic age, there should be scope for collecting co-ordinated information in

- jointly produced application forms both for First Registrations and for Dealings, and
- Deeds of Transfer.

The Deeds of Transfer would continue to include information as now on the address, the price or other consideration. The accompanying jointly devised application forms, for first registrations or other dealings, would cover the additional information most needed for purposes of valuation and market transparency, notably

- property type,
- floor area (or changes in floor area),
- period of lease,
- rent,
- rent review information, and preferably
- repairing obligations (where full repairs and insurance are now the norm).

In a joint Registry and Valuation Office form, lessees could be obliged rather than invited to supply this information, as being necessary information for purposes of the Valuation Office's rateable value assessments. The same considerations apply, moreover, to transfers of freeholds, where similar information on property type and floor area (or changes in floor area) is relevant for the Valuation Office's assessments of Council Tax bands.

With the advent of electronic conveyancing, dealings applications will be lodged electronically and transfers will probably be effected through registration after payment of sums due (including stamp duty).

The preliminary data input screens for the electronic lodgement processes (which would replace the application forms and in part the deeds of transfer) could then be developed so as to capture the same information on prices, rents, property types and floor areas (or changes in floor areas). Less effort by conveyancers would be required than at present in completing all the separate forms required by Land Registry and the Inland Revenue (acting on behalf of the Valuation Office). With the information being directly inputted into the systems of the Registry and the Valuation Office, there would also be less opportunity for transcription errors and fewer requisitions by both Departments in respect of incomplete or conflicting information.

The software could then transform the data through standard programmes into useful market information for publication along the lines discussed earlier.

(j) *NEARs*

In the area of leases, the published information might usefully include series for average *notional equivalent annual rents* (NEARs) per square metre, for newly leased commercial and domestic properties of various types and in various regions.

The NEARs would be the Valuation Office calculations which convert the considerations paid, the periods of the lease, rents and other relevant financial data into a single amount for what the equivalent annual rent would have been if the lessor had simply rented the property out for the period of the lease, without up-front payments and other complications.

The published methodology of the NEAR would in principle enable persons with transactions in the market to calculate a NEAR for their own property for comparison.

The NEAR would be a statistical construct, without contractual significance. Calculation of the NEAR would be sensitive to

- whether or not items such as annual service charges are included,
- what assumptions are made as to inflation in charges over the period of the lease,
- what discount rate is used to scale later outgoings compared with earlier outgoings and, above all,
- what the gap is between the assumed inflation and discount rates.

The NEAR, and in particular the NEAR per square metre or NEARSQAM, would however provide for lessors, lessees and others a handy means for tracking wider national and regional market movements in the terms of leases and for comparing individual leases of varying lengths with one another and with wider national and regional trends.

Initially at least, the Registry and the Valuation Office might publish NEARs per square metre by property type and region, with suitable accompanying commentary including the formula used to calculate them, as additional tables alongside other statistical information at the macro level.

If the NEAR per square metre is found to be useful, consideration could be given in due course to possible further uses along the lines of APRs in the consumer credit sector. But that would be for later.

(k) Staffing implications

A key practical issue on registering more leases, as on completing geographical coverage of the Register, is what the resource and in particular the staffing implications would be. Chapter 4 has already discussed the broad parameters.

Based on Valuation Office data collected through Stamp Duty forms, the numbers of leasehold transactions in England and Wales with terms exceeding 3 years in 1999 were:

Commercial	50,076
Domestic	296,012
TOTAL	346,088

In the same period, the Land Registry processed 300,907 applications relating to sales of leasehold land.

The implication is that lowering the present 21-year cut-off to 3 years could add up to 45,000 cases to the Registry's annual workload. This figure is subject, however, to a considerable margin of error.

The Registry calculates that on average individual staff members can process between two and three lease applications per day (say 2 1/2 or 550 per year). The average masks a slower rate of processing for commercial leases, which tend to be complicated, than for domestic leases (which still account for 85 per cent of total transactions in leases). The complexity of work on commercial leases, in particular, is such that some of the additional staff would need to be in higher grades.

On that basis, and assuming an extra caseload of 45,000 a year, the Registry would need to deploy about 80 more staff to registration of leases if the cut-off period were reduced to 3 years. The fees payable would broadly cover the extra costs.

In contrast with completing geographical coverage, the extra staff would be needed on a continuing basis.

5.5 Information on property types and floor areas

As implied in section 5.4, transparency in the property markets, both freehold and leasehold, depends importantly on the availability of good information about types of property and floor areas (square metres). The authorities need to be able to marry up this information with price, rent and locality information to produce useful market statistics.

In the freehold housing market, the absence of suitably married up information at national level on prices, property types and floor areas has so far prevented the development of a satisfactory national index of house prices. Such an Index needs among other things to be "mix-adjusted" so as to ensure that the movements in the

Index reflect genuine price changes and not shifts between one period and another in the proportions of property types or sizes traded.

A Committee chaired by the ONS with DETR, the Land Registry and others, has recently made good progress on the development of such an Index. The Committee has recognised that in the longer term, and in particular when e-conveyancing has reduced or removed the delays between completions and registrations, the Land Registry's data will provide the best basis for the national Index.

The suggestions made in section 5.4 for assembling information about property type and floor area alongside information on transaction prices for each property through the development of joint Land Registry / Valuation Office application forms should considerably facilitate development of the proposed national Index of house prices as well as bringing some transparency to the leasing market.

As implied there, the Registry does not have any clear locus, in terms of the registration function, to require provision of information on property types and floor areas. Hence there would be some awkwardness in the Registry requiring such information on its own account.

The Valuation Office, on the other hand, does have a clear locus to require property occupiers to state property types, floor areas and changes in floor areas. This information is relevant to Business Rates valuations and to Council Tax capital value bands.

The proposed development of joint Registry / Valuation Office forms should therefore enable the two bodies to collect this information systematically on a compulsory basis in a single collection process replacing three existing collection processes and hence reducing compliance burdens.

At a more technical level, the main property types that need to be distinguished would seem to be:

<i>Domestic dwellings</i>	<i>Commercial and other properties and land</i>
Detached	Shops
Semi-detached	Offices
Mid-terrace	Warehouses
End-terrace	Factories
Bungalows	Public buildings
Maisonnettes	Leisure buildings
Flats	Agricultural land
Garages	Publicly owned land
	Commercial development land
	Amenity land

Floor areas provide a far better basis than the traditional but arbitrary "number of bedrooms" for assembling useful data on trends in property prices and variations between localities. The Land Registry's present application forms request information on the number of bedrooms. In practice, most conveyancers do not respond to this request.

The application forms would preferably oblige applicants to give information on floor areas and provide guidance on measurement. The Valuation Office database does however include measurements, or scalings from architects' plans, of the areas of domestic as well as commercial properties. So a request for floor areas where there have been changes since the last registered transaction, or for changes in floor areas, would be a possible alternative.

5.6 Mortgage details

In the interests of property and mortgage market transparency, there *may* be a case for showing more details of mortgages on the Register and aggregating it for the purpose of published national statistics.

For persons contemplating transactions with the owner of a property, there could be considerable value in being able to access such information for the property concerned on the Register. In many other countries, such information is readily available.

The additional details for consideration in this connection would be:

- the amount of the initial loan (if fixed)
- the limit on the mortgage loan facility (if this is how the mortgage agreement is expressed)
- the initial interest charge
- the term of the loan (if any).

The strength and priority of the case for this would, however, need to be discussed with the DETR, the Financial Services Authority, the Council of Mortgage Lenders and possibly others before any decisions are reached.

At the macro level, the DETR already conducts a Survey of Mortgage Lenders based on a 5 per cent sample of completions from a cross section of 50 lenders. This Survey provides information for the DETR's quarterly house price index and data on borrowers and ratios of advances to prices. During 2001 most of the 50 lenders will begin to supply information on all their completions instead of 5 per cent. The DETR will then be able to publish a monthly house price index. This will form a significant component of the national index referred to in section 5.5, paragraph 3.

For the Registry, collecting the extra information on mortgages would at present be somewhat burdensome. With e-lodgement of applications, however, it would become relatively simple.

5.7 Points raised by bodies consulted

As discussed in Chapter 3, representatives of the Law Society, the Council for Licensed Conveyancers, the Council of Mortgage Lenders and the Royal Institution of Chartered Surveyors all made certain suggestions for improving the Land Register and the associated services. Individual firms and persons made suggestions, too. The Land Registry intends to follow up all these points as appropriate.

There are just a few aspects that should be mentioned here.

(a) Service quality versus fee reductions

The Law Society representatives argued that, from the standpoint of practitioners, improvement in Register quality and services was more important than further reductions in Land Registry fees. The Registry's fees, especially for searches and office copies, were modest in relation to the scale of transactions concerned.

In my opinion, this is a significant comment which the Registry should bear in mind in developing future strategy. It will, however, be important to continue the policy of keeping fees as low as possible in relation to levels of service provided.

(b) Sewing-in of documents

The Law Society criticised the Land Registry's tendency to refer in the Register to supporting "sewn-in" documents rather than encapsulate the relevant information in the face of the Register.

The Registry has indeed changed its practice recently so as to "sew-in" more documents. The present policy is to "sew-in" a document if the extract that would otherwise need to be quoted on the Register is lengthy.

The new practice reduces the risks of inaccuracy. It does, however, make the Register less user-friendly. A further issue is that conveyancers have to apply separately, and pay separate fees, for office copies of the Register and for "sewn-in" documents referred to in the Register.

The solution, in my opinion, must be for the Registry and the Law Society to discuss together where the balance should be struck. The present programme to scan Register referred documents may help to facilitate a solution.

(c) Delays in first registrations

As a general proposition, the Registry have told me that they accept the Law Society's point about the need to reduce turn-round times on applications for first registrations.

The Registry's objective is reduce delays drastically and wherever possible to turn round applications for first registrations as quickly as other applications.

In the nature of things, however, there will always be some first registrations where there are significant problems of title and mapping that cannot be solved so quickly.

(d) Skill and qualification levels

The Registry tell me that they have noted with some surprise, but also with concern, the fears about de-skilling of Registry front-line staff expressed by representatives of the Law Society and the Council for Licensed Conveyancers.

The Registry has raised its training programmes over the past three years to unprecedented levels. More than 200 Registry staff are currently working towards a

new Land Registry Qualification at degree level. A further 230 are due to begin next September.

The Registry fully accept, nevertheless, that this matter must be kept under review in the regular discussions between the Registry and the conveyancer bodies.

Conveyancers' perceptions of de-skilling may reflect at least in part the Registry's policy, discussed in Chapters 15 and 16, to give staff in the front line teams more responsibility than before for handling cases and talking to clients, with lawyers acting more often than before in an advisory capacity.

In general, this policy seems right to me. But clearly frontline staff should make a practice of asking lawyers to talk to clients as soon as it is clear that a lawyer's expertise is necessary to deal with a query. The standard briefing for staff already mentions this. But the point could perhaps be emphasised and made more explicit.

(e) Publicity material

A common perception among the bodies whom I consulted, and one shared by the Independent Complaints Reviewer, was that the Registry would do well to improve the quality and distribution of some of its published information and guidance on land registration.

In my opinion, there is force in this suggestion. While some of the Registry's explanatory materials seem to me exceptionally good, the format and language of Land Certificates and, in particular the accompanying covers and the related customer information on the website, could evidently be made more useful, accessible and user-friendly. The targeting of such material might also be susceptible of improvement.

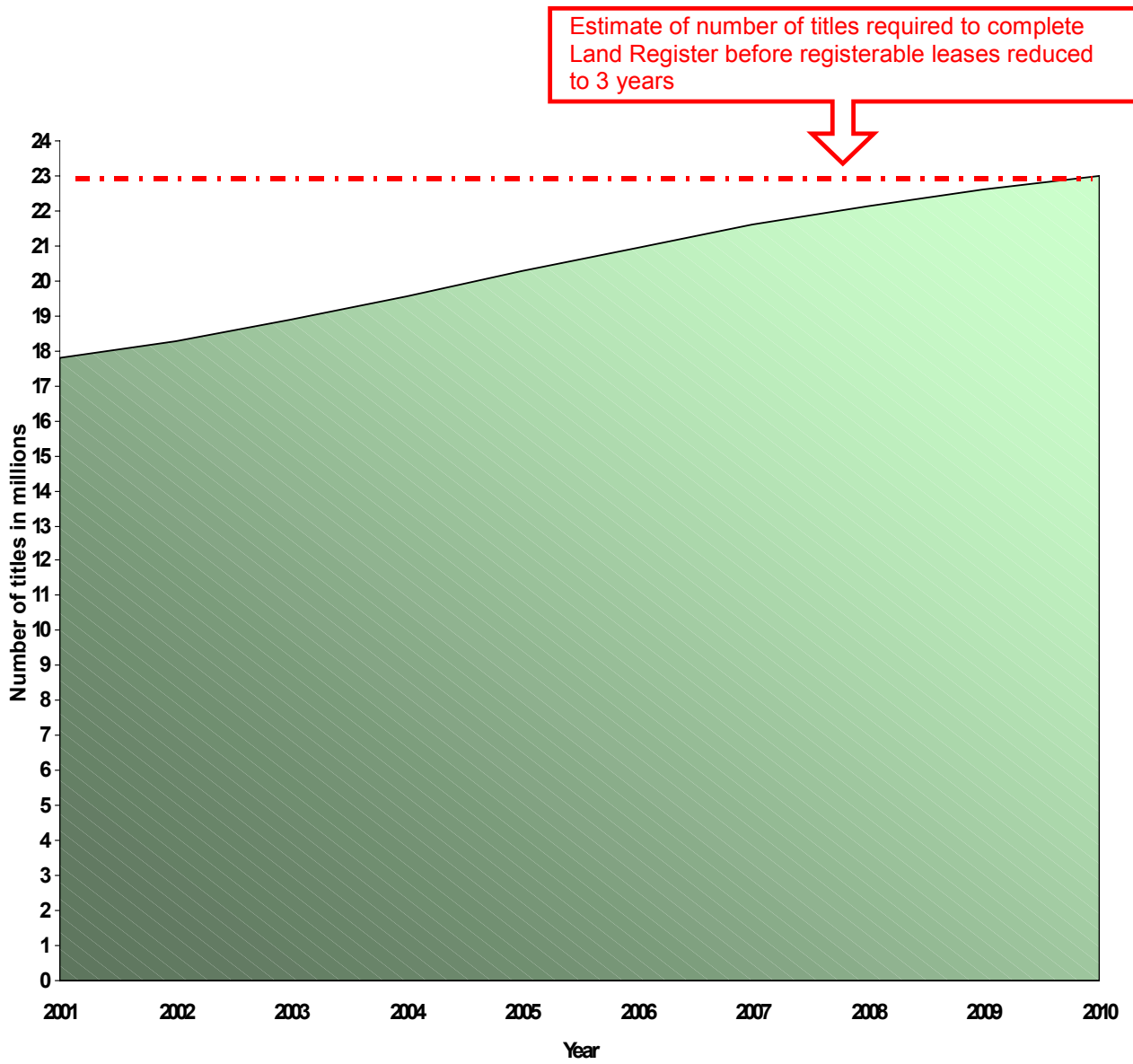
(f) Quality of applications

As implied above, the regular discussions between the Registry and conveyancers' representatives provide a valuable forum for considering improvements in the Registry's services.

In my opinion, these discussions could usefully be extended to cover quality issues in the submission by conveyancers of applications to the Registry as well. Registry staff and conveyancers are partners in a common enterprise.

To judge by my visits to District Land Registries, more than 50 per cent of applications by conveyancers are incorrectly lodged. The Registry has to put these aside in "Standover" while mistakes are checked and corrected. This adds greatly to the Registry's burdens and costs and reduces the scope for making progress in other areas.

BOX 5.1
COMPLETING THE LAND REGISTER



BOX 5.2
PRESENT POLICY ON REGISTRATION OF LEASES

In accordance with present statutes, the Land Registry's policy on registration of leases is as follows:

- The Registry does *not* register leases granted for 21 years or less.
- New leases granted for more than 21 years *must* be registered.
- Leases not previously registered which are transferred with more than 21 years left to run *must* be registered.
- A lease that is not itself capable of registration may contain an option in favour of the lessee to renew the lease or purchase the reversion. The Registry will, on request, *note* such options on the lessor's register. Noting such options alerts interested parties to their existence.
- The Register records information about prices or considerations paid and initial rents at the time of registration.

The Land Registry provides the following guarantees with regard to leasehold titles:

- Registration of leasehold properties with "absolute title" carries with it a guarantee by the Land Registry that the registered lease is vested in the registered proprietor and that the lease was validly granted.
- Registration with "good leasehold title" has the same effect as registration with absolute title except that it does not guarantee that the lease was validly granted.
- Registration of leaseholds with a "qualified title" has the same effect as registration with absolute or good leasehold title, as the case may be, except for the specified defect.

BOX 5.3
STANDARD SUMMARY PAGE FOR NEW OR ASSIGNED LEASES

Property, parties and Stamp Duty

- Address of property
- Lessor's Land Registry title number
- Names of lessor, lessee and any other parties to the lease
- Stamp duty [if treated as front page of lease]

Lease

- Date and commencement of lease
- Length of lease and break options
- Consideration or premium (ie payment for purchase of lease)
- Annual rent payable
- [Annual fixed service charge and repairing obligations]
- Rent review provisions

Assignments, options, sub-leases and restrictions

- Freedom or otherwise to assign lease
- Options and frustration clauses
- Existence and length of any sub-leases
- Applications for restriction on assignments or other dealings

Note.

This Standard Summary Page would be attached to leases which are the subject of applications for first registration .

6 STRATEGY: MAPPING

6.1 Title Plans and Index Maps

Mapping lies at the heart of the Land Register. More enduring than either ownership or charges, it plays a vital role in defining “parcels”, “extents” or “polygons” of land registered under a particular title. It also offers a principal means of access to the Register.

The registration process includes maps of two kinds:

- i. *Title Plans*, or Filed Plans (see Box 6.4(a)), forming part of the Register, which legally define the location and extent of the registered title, within general boundaries, together with any rights of way that persons other than the owner may possess, and
- ii. The *Index Map* (see Box 6.4(b)), not forming part of the Register, which is designed not to define anything in a legal sense but rather to fulfil two *information* functions:
 - primarily to help Land Registry staff, practitioners and public to locate a property and / or identify its title number on the Register (the *index* function) but also
 - to enable interested parties to see how a number of properties in a neighbourhood, registered or unregistered, fit together in terms of geography (the *neighbourhood* function).

Rule 280 of the Land Registration Rules 1925 says that “the Ordnance Map shall be the basis of all registered descriptions of land”. Both title plans and index maps are drawn accordingly on the Ordnance Survey maps at the largest scale available.

As discussed in Chapter 2, the boundaries defined in title plans are “*general*” boundaries. They define the position of the boundaries in a legal sense without purporting to be accurate to within a few inches (or even a few feet if the boundary is, for example, a thick rhododendron hedge). Official marker posts to indicate the position of the boundaries on the ground are rare in England and Wales. But topographical features such as rivers, roads, walls, fences or hedges often indicate the position of the boundaries in practice.

The boundaries shown in index maps, on the other hand, have no legal status. Their purpose is simply to fulfil the information functions described above.

As noted above, index maps and title plans are prepared to the largest Ordnance Survey scales available. At present these are

Urban areas	1 : 1,250
Rural areas	1 : 2,500
Mountain and moorland areas	1 : 10,000

Where necessary, the plans prepared are enlarged versions of these published maps. In many such cases, the enlargement is from 1 : 2,500 to 1 : 1,250 or 1: 500.

6.2 State of play: geographical coverage, access and updating

As with registration generally, so with the title plans, *geographical coverage* is not yet complete. New, computerised title plans are prepared for all first registrations of properties not previously registered and for the creation of new titles following transfers of part of a title. These are often heavy tasks, involving considerable research in old Deeds and / or repeated exchanges with the practitioners who submit proposed title plans to the Registry.

The Index Map, on the other hand, can be regarded as a single map covering the whole of England and Wales and recording the extents of all registered titles. For practical reasons, the paper index map is held in separate manageable extracts, bound in hard covers, which can be associated with registration extracts being processed. Once digitally based and vectorised, the index map will become a seamless map of the whole country accessible from anywhere. (See further below.)

With regard to *access*, any practitioner or member of the public may obtain copies from the Registry of any title plan. Copies of index maps for particular neighbourhoods can sometimes be made available as well. Scanned title plans are available online through LR Direct and will be available in due course through NLIS as well.

With regard to *updating*, the present position is that neither title plans nor index maps are updated in line with the latest changes in Ordnance Survey mapping unless there is good reason to do so. At any one time, therefore, the majority of title plans and index maps are based on earlier versions of the Ordnance Survey map dating from the time when the plans were drawn.

The Registry does update title plans and index maps when applications for registration of adjoining properties reveal inconsistencies and / or as a result of survey information which it itself commissions from Ordnance Survey or its own surveyors. Index maps in particular may also be updated where there are major revisions to the Ordnance Survey map.

The justification for the present policy is that constant updating of title plans in line with OS revisions would not only

- i. be prohibitively expensive, but also
- ii. cause quite unnecessary concern in most cases to owners and purchasers.

The OS make about 2,500 changes to the national map on average every month. The implications of such changes for individual title plans will often not be clear without a considerable amount of work.

Continuously updating the index maps for OS changes is still less necessary. As explained above, the index maps are essentially an index. They exist above all to

indicate whether or not land is registered and if so under what title number so that the Register can be accessed for any property.

When these maps have been digitised or vectorised, on the other hand (see below), updating them in line with the latest OS mapping will become a much more practical proposition.

6.3 State of play: scanning and digitising

Before the new information and scanning technologies became available, the drawing of title plans and preparation of index maps were highly time-consuming tasks demanding considerable cartographic skills. Accessing paper-based plans was also expensive and unsatisfactory, especially as the condition of such plans tends to deteriorate over time.

The advent of improved scanning technologies and IT enabled the Registry to launch, in 1995, a programme to scan all existing title plans and hold them in a computer database. This task is now substantially completed. About 95 per cent of all title plans are now held in scanned or digitised form and can be accessed online (and copies printed) without any need to locate the original plan.

The Registry has also made a beginning since late 1996 on generation of digitised or vectorised title plans. The two terms are interchangeable. Such plans offer the advantages of speed in preparation compared with hand-drawn plans, online amendments and a potential to take in OS changes automatically.

The present policy is that *new* title plans, notably for first registrations of previously unregistered properties or creations of new boundaries as a result of transfers of part of an existing title, should be computer-mapped in this way. Computer-mapping has reduced the processing time required by about 40 per cent on average, and likewise the requirement for cartographic skills. It also enables subsequent changes to be made with far less effort.

The quality and consistency of computer-generated plans likewise represent a dramatic improvement compared with earlier hand-drawn maps. All District Land Registries now have facilities for computer mapping. By the end of 2001, all new title plans will be prepared in this way.

At the time of writing, only some 250,000 filed title plans are in vector format. These are a proportion of the new titles registered since 1996. There is no plan at present for vectorising the 17.55 million plans that exist already in scanned form, though it will clearly be desirable to vectorise these when resources permit.

The Registry *is* about to launch a programme, on the other hand, to vectorise the index maps. The business case envisages a three-year project involving resources of about 580 staff-years (that is, approaching 200 full-time equivalent staff on average over the period), at an assumed average polygon creation of 200 per staff-day.

As discussed earlier, index map boundaries are not critical in the same way that title plan boundaries are. Index map vectorisation, though a large task in itself, is therefore a much smaller task than vectorisation of the stock of title plans would be.

6.4 Issues

In the development of mapping over the next five years and beyond, there are a number of strategic issues to be considered. We concentrate in this Chapter on the following in particular:

- General boundaries
- Priorities and strategies for vectorisation
- Potential problems with vectorising and updating title plans
- Legal position
- Improved briefing for users
- Quality, efficiency, access and product improvement
- Co-operation with Ordnance Survey
- Requirement that new plan proposals be compatible with OS map
- Fee-based advisory service on mapping
- A strategy for the next 10 years
- Governance

6.5 General boundaries

In my opinion, the Land Registry has been right to stick with a system of general boundaries and should have no hesitation in continuing to do so. The change to a system of fixed boundaries, along the lines found in rather more than half the European countries, would cause huge disruption and misery to no good purpose.

As discussed in Chapter 2, the general boundaries approach to registration has served England and Wales well. The registration system incorporating such boundaries has produced a high level of public confidence in land and property ownership.

In contrast with earlier attempts to fix boundaries precisely, the general boundaries system has generated remarkably few disputes over boundaries. It has also been cheap to administer.

In England and Wales, at least, the past history suggests that to be overprecise is to invite trouble. The process of fixing boundaries and establishing permanent markers, in particular, would be likely to be far more troublesome than any problems that may arise from the fact that boundaries are not defined to the nearest inch or two. The process itself would be likely to sensitise neighbours quite unnecessarily to problems of which they would never otherwise have been conscious and to cause disputes that would otherwise never have occurred.

In the 1925 legislation there remains, in fact, a provision for Fixed Boundaries (Rule 276 of the Land Registration Rules 1925). This service is available on request by the applicant but is barely ever used in practice.

None of this is to say that fixed boundary, cadastral systems are wrong in themselves. On the contrary, many countries have such systems and operate them successfully. The point is rather that, if one system is working well in a country, there is no good reason for changing to the other.

The UN Economic Commission for Europe has recognised that general boundaries are a more than practical system with much to commend it, not least in terms of simplifying and reducing the costs of land transfer. The pie-chart at Box 6.1 shows the proportions of countries using general boundaries as against other systems.

One respondent to the Review's consultative exercise commended the case for fixed boundaries. For all the reasons discussed, however, I cannot think that such a reform would be desirable. Even if it were, there are surely many other reforms that deserve higher priority.

6.6 Priorities and strategies for vectorisation

In the longer-term, the Register title plans and index maps ought preferably to be

- fully vectorised
- based on a common set of digitally held data
- consistent with each other
- consistent with the Ordnance Survey
- continuously updated in line with Ordnance Survey as well as changes in registered extents
- readily accessible online, and
- capable of being readily overlaid on Ordnance Survey maps and aerial photographs.

It will, however, take some years to achieve all these aspirations. The immediate issues are what the priorities should be (a) *within* mapping, especially for digitisation or vectorisation, and (b) *between* mapping and other Register improvements.

In my opinion, the Registry's present policy to use computer mapping to produce vectorised title plans for all new registrations makes a great deal of sense. Computer mapping is not only far less labour-intensive than the older manual techniques but also produces results of superior quality. It would more than double the workload per property over time to prepare these new title plans with the old technologies now and then vectorise them later.

In my opinion, again, the project to vectorise the index maps makes sense as well. The present index map is a hybrid of paper, scanned and vector formats. It is not readily available for use by customers. After vectorisation, it will be a more valuable facility. Both Registry staff and people outside will more readily be able to identify the properties they wish to access in the Register. The Registry will also be able to supply an improved "neighbourhood" function service.

When the Land Registry has vectorised the index maps and the Ordnance Survey has introduced its next-generation Digital National Framework (DNF) and topographic identifiers mapping (TOIDs), it should become possible to update the index map in

tandem with the latest OS mapping. This will provide a mine of valuable and up to date information about national land use and ownership. It will also be possible to obtain ready access to the Index Map through the OS TOID reference.

In addition to the computer mapping of new titles and index map vectorisation programmes, there is a third important programme that needs in my opinion to be added to the mapping strategy for the years ahead and to be planned for well in advance.

The Registry needs a programme to vectorise the stock of some 17 ½ million *existing* title plans as well as using computer mapping to generate title plans for previously unregistered properties.

Although the scanned plans have greatly improved the position compared with earlier times, scanned plans have some limitations:

- First, the paper plans from which they are copied may be obscure or deficient. They also come in varying sizes and formats.
- Second, further small inaccuracies can be introduced in the scanning process, depending on technicalities such as the angle and distance of the scanning camera and paper slippage. The Registry have gone out of their way, however, to make them as accurate as possible.
- Third, they cannot readily be reviewed against modern and updated mapping.
- Fourth, there is no scope for amending scanned plans online. The process of amendment therefore remains laborious.
- Fifth, the transmission of scanned images tends to be slower than that of vectorised images.

Vectorisation of the stock would deal with these problems. In addition, it is a necessary step towards a world where title plans, index maps and Ordnance Survey maps are all consistent with each other and simultaneously updated. It would also help to speed electronic transmission.

Desirable as digitisation of the title plan stock would be, it is not, perhaps, super-urgent. It should not be allowed to get in the way of other priorities such as completing geographical coverage of the Register and increasing the coverage of leases.

On present technologies, moreover, the scale of the task is somewhat daunting. As discussed earlier, title plans define legal extents. Each title would need to be reviewed to ensure that any changes on vectorisation would not be controversial. Consultation with owners would be needed in some cases. The task will be many times greater (possibly 10 times) than vectorisation of the index maps.

Realistically, therefore, it will be necessary to allow a considerable period of years for completing vectorisation of the stock of title plans.

With present technology, a trained member of staff could probably vectorise on average a maximum of about 20 existing title plans per day. This compares with about 200 per day for the Index Maps.

If each of the 24 District Land Registries employed 20 staff on this work, therefore, (that is, about 480 staff across the Registry as a whole), each district registry could probably vectorise upwards of 400 title plans per day, or about 90,000 per year. For the Land Registry as a whole, the rate of vectorisation would be some 2 to 2 1/4 million title plans a year.

Complete vectorisation of the existing title plans would be likely, therefore, to take 8 or 9 years with this number of staff.

With improving technology and experience gained from Index map vectorisation, moreover, there could be scope for accelerating the process to some extent (see further below).

Even with this number of staff, therefore, it may be possible to vectorise the vast majority of title plans by the end of 2010.

The programme could be hastened or slowed down in direct proportion to the number of staff allocated. With twice as many staff, for example, the programme could be delivered in half the time.

A possible strategy would be to proceed in two phases:

1. to vectorise the index maps over the next three years, and then
2. to proceed immediately thereafter to vectorise the existing stock of title plans, possibly over a seven-year period.

It would seem useful, however, to pave the way for phase 2 above with some preparatory steps in the meantime.

Some steps which might be considered in this connection are:

- (a) Identifying and flagging within the index map vectorisation programme the titles/extents where the file plans could be vectorised with minimal further intervention (notably titles where the index map and title plan boundaries are identical)
- (b) Launching an early feasibility study for vectorising title plans including digital scanning of present scanned images into vectorised form
- (c) Vectorising straight away all title plans where changes need to be made
- (d) Vectorising title plans for properties subject to the most rapid turnover (or all properties which are the subject of dealing applications).

Items (c) and (d) might alternatively or additionally be treated as priorities when the title map vectorisation project gets under way in three years' time, as might also the properties identified under item (a).

6.7 Potential problems with vectorising and updating title plans

A particular problem in relation to vectorising title plans is that in a minority of cases the vectorisation process may point to making changes in boundaries compared with existing plans which, while usually not very great in themselves, might nevertheless be of concern to owners.

Such changes might be needed, for example, because of imprecisions or inaccuracies in the present title plans, inconsistencies with adjacent plans involving overlaps, or changes in OS mapping.

A similar problem could arise in relation to updating the vectorised plans subsequently in line with changes in the OS map (if that should be the policy).

Rare as such cases might be, the Registry would clearly need a considered policy for how to deal with them.

It would clearly be necessary to monitor any potential changes carefully and to inform owners about proposed changes that might be, or seem to be, to their disadvantage.

For the rest, there are two possible extremes of policy that might be considered.

- At one extreme, it would be possible to take up all such issues forthwith with the owners concerned. The rationale for this would be that addressing the problems as soon as identified is better than leaving them to emerge later at what might be a difficult time.
- At the other extreme, the policy could be to vectorise exactly the existing plans without making any changes in extents and not to propose any boundary changes as a result of OS revisions. The rationale for this would be that it is better not to try to solve potential problems that may very well never turn out to be actual problems.

In my opinion, the practical solution will probably be to steer a middle course between these extremes. It will almost certainly be useful to conduct pilot trials in two or three areas of the country with a view to judging the dimensions of the problem and the pros and cons of different solutions.

6.8 Legal position

A related issue is what changes in title plans the Registry has powers to make, as part of the vectorisation and updating programmes, without notifying the owners.

The present Act and Rules are not specific about this. The Registry has considerable discretion, while clearly needing to respect the general principles of law and the Human Rights legislation.

The Registry's present practice is to inform the registered proprietor about any proposed "replacement" of existing title plans.

If on a fair interpretation there is no alteration in the boundary or extent, bearing in mind the general boundaries rule (see above), the Registry simply notifies the proprietor of the proposed change but adds that there is no change in the extent.

If the latest mapping information suggests that the boundary is not where it was previously drawn, Registry staff have to judge how best to proceed: whether to take the matter up with the owners concerned, whether to commission surveys, or whether to leave the title plans as they are.

In the case of applications for first registrations, the Registry's work on the application may occasionally reveal that the claimed extent for the new title overlaps with the registered extent of an adjacent title.

In such a case, the Registry maps the new extent to *exclude* the area of overlap but informs the applicant about the overlap so that the applicant may apply for rectification.

If the applicant does apply for rectification, the Registry takes the matter up with the owner of the adjacent title and seeks to promote an agreement.

When the Registry launches a programme to vectorise the existing stock of title plans, this will become a significant issue. If, by analogy with present practice, the Registry were to notify all existing owners when their title plans are vectorised, and invite comments and representations, that would add substantially to the costs and burdens of the vectorisation programme and the amount of time required. It might also cause a great deal of unnecessary anxiety.

Subject to further consideration, therefore, the Registry's best approach might be to retain administrative discretion and to exercise this discretion to replace existing title plans by vectorised plans without notification in cases where on a fair interpretation there is no alteration in the boundary or extent, bearing in mind the general boundaries rule.

The justification for this would be that it is better to avoid

- (a) unnecessary expenses and delays, and
- (b) causing owners unnecessary concerns by informing them about changes that do not in reality change anything.

On the other hand, the Registry would need to be scrupulous in informing owners about any changes that are or could be significant.

6.9 Improved briefing for users

The more widely and readily available title plans, index maps and Ordnance Survey maps become, the more important it will be for all who have interests in property to understand the legal and practical significance of these maps and their relationship with current Ordnance Survey mapping.

The Land Registry will need therefore to redouble its efforts to provide clear but accessible guidance for users. This needs to get across key messages such as those in the accompanying Box 6.2.

The Registry needs also to ensure that the guidance is available in the right places and at the right times. The guidance needs to feature prominently in:

- the Land Registry's website
- the information notes which appear on the covers of Land Certificates and Charge Certificates (for the benefit of owners of titles and charges)
- online texts alongside online title plans
- seller's packs
- notes for purchasers alongside office copies
- conveyancers' offices.

6.10 Quality, efficiency, access and product improvement

For the most part, quality improvements in the Land Registry's maps and efficiency improvements in the mapping service and access to it will be achieved through the scanning and, still more, the computer mapping and vectorisation processes already discussed.

The scanning of title plans has enabled Registry staff to access them and distribute copies far more quickly and cheaply than was possible before. It has largely removed the need to handle frail and decaying old paper plans as well as enabling the Registry to back up the plans against the possibility of fire or loss. It has transformed the accessibility of Register information to practitioners and the public by opening the way to online searches of title plans.

Computer generation of title plans for first registrations will improve quality by producing neater plans drawn to a standard specification to indicate the boundaries of individual plots. It will make updating and consistency with other plans and other maps, notably the OS maps, far easier to achieve. It will also reduce plan preparation times by about 40 per cent, on average, and costs by a similar margin. Training times too, though still considerable, will be substantially reduced.

Vectorisation of existing plans will yield similar benefits for the existing stock of title plans.

The provision of clearer guidance on mapping, in the right places and at the right times, will likewise improve the mapping services.

In terms of user satisfaction, there is a case for launching a further programme as well, at an early stage, designed to enable title plans and index maps to be overlaid online on attractively coloured Ordnance Survey maps and aerial photographs (possibly with an acetate overlay option as well) where there is a demand. This would illustrate in readily visible and attractive way how the boundaries of individual plots and estates fit with the geographical features.

The Registry's present mapping products mostly look dry, dusty and arcane. A facility of the kind proposed, which exists in Alderney (see Box 6.4(c)) and which the Chief Land Registrar recently saw being introduced in parts of Australia, could do wonders in terms of making the Registry's mapping products more attractive in the short term. The Registry is presently investigating the possibilities for this.

The Registry itself would preferably hold the data for overlay purposes, so as to update it in tandem with other Registry mapping data, even if NLIS, LR Direct or the proposed new LR mapping advisory service (see sections 6.13 and Chapter 10) organise the service.

6.11 Co-operation with Ordnance Survey

There may be scope for some further efficiency improvements in the area of co-operation with Ordnance Survey.

For the most part, the relationship between the Land Registry and the Ordnance Survey seems to me to work well.

The Land Registry is the OS's largest single customer. The two bodies now keep in close touch over developments in mapping so as to maximise the scope for realising the synergies between them.

In financial terms, the Land Registry may have been paying somewhat over the odds for the OS's services. The annual bill to the LR in the current year, 2000-01, is around £6 1/2 million a year, comprising in round terms:

Purchase of maps	£3 million
Royalty payments	£2 1/2 million
Surveyor services	£1 million.
TOTAL	£6 1/2 million

A new agreement for next financial year, 2001-02, however, reduces the budgeted LR spend to some £ 5 million. The two previous Service Level Agreements have sensibly been consolidated at the same time into a single agreement.

From a broader perspective, I hope that the Land Registry and the Ordnance Survey will not devote too much resource in future to conducting quasi-commercial negotiations about precise levels and conditions of charge. The public will ultimately fund the two bodies (apart from DETR's public interest payment to Ordnance Survey), as being the ultimate customers of OS products, land searches, information

and registration services. The important points are that the financial terms are reasonable and should give both bodies the right incentives.

If there should be difficulties in future, a sensible approach might be to commission an outside micro-economist or Intellectual Property expert to adjudicate a reasonable level or formula for the payments.

For the time being, there are perhaps two areas where strengthened co-operation could benefit both bodies and the public generally.

i. *Deployment of surveyors*

In pursuit of LR business, mostly related to title plans and boundary disputes, LR staff carry out about 30,000 surveys a year at a cost of about £46 per visit. The LR commissions OS to carry out about 6,000 surveys a year, at a cost of £185 per visit. The OS Surveyors are needed to deal with extensive mapping revisions, such as new estates. The LR's own staff are well equipped to make inspection surveys to follow up requisitions. Their background in LR casework gives them some advantage in this area. Between the two extremes there are some cases where either OS or LR surveyors could do the job.

There is a project for LR staff to trial the OS's new laptop surveying system. Especially with the help of this new technology, and a limited amount of additional training, there may be scope for the LR

- to do a rather higher proportion of the total survey work, while also
- passing more information back to the OS for incorporation in the OS mapping data.

This should help both the OS and the LR to reduce costs.

ii. *Overlay projects*

There may likewise be scope for the OS and the LR to co-operate together in the development of attractive mapping overlay projects, enabling users to overlay index map property extents on up to date OS maps (see the preceding section of this Chapter).

6.12 Requirement that new plan proposals be compatible with OS map

A frequent problem for the Land Registry and customers alike is that proposals for Title Plans submitted with applications for registration of new titles (or occasionally transfers or leases of part) cannot be reconciled with the latest OS map.

Where this happens, there tends to be a significant period of delay and frustration as the Registry sends out requisitions which lead to extended exchanges with the customer's surveyor or conveyancer. The LR may need to send its own or OS surveyors to inspect the problem on the ground.

A common practice at that stage is to invite the applicant and the seller to indicate the intended extent on a copy of the OS map. The LR may then suggest what the extent is and invite agreement by signature.

A further factor inducing delay in these circumstances is that first registrations usually follow rather than precede sale. The seller's conveyancer often has difficulty in persuading the seller, who no longer owns the property, to co-operate.

The problem may also arise at registration of new estates. Professional surveyors may have drawn up detailed plans but they may not be capable of being related to the latest OS map.

One part of the solution to this problem could be to introduce a new requirement that new or unregistered properties and titles be registered prior to sale.

There may also, however, be a case, as one respondent to the Review suggested, for strengthening and enforcing the 1925 Rule obliging applicants for first registration of a property or plot, or transfers or leases of part, to submit plans that enable the Registry to identify the plot on the latest large-scale Ordnance Survey map.

Where the address of a property does not enable its extent to be fully identified on the latest OS map, applicants should be obliged to submit *plans* based on this map, not verbal descriptions or plans not based on this map, and the Registry should *enforce* the requirement strictly.

6.13 Fee-based advisory services on mapping

There may also be a case for the Land Registry to introduce, alongside the new requirement just discussed, a new fee-based mapping advisory service to help customers and practitioners who so wish to prepare draft title plans for first registrations or even, if requested, to prepare them on their behalf.

As discussed in Chapter 10, this would be one of several self-financing advisory services provided not by the main Land Registry but by an Advisory Service subsidiary of the Land Registry (LRAS). It would be staffed mainly by former Land Registry (and possibly Ordnance Survey) staff working on a part-time basis.

There would be no guarantee that the Chief Land Registrar or his staff would accept any plan drawn up by, or with the help of, the LRAS. But LRAS staff would have long and precisely relevant experience from their earlier employment as Land Registry staff. So customers would know that they would receive authoritative and impartial advice.

The availability of such a service would make the introduction of the new requirement for compatibility with the OS map discussed in the previous section more acceptable.

The Registry proper, as opposed to the proposed LRAS subsidiary, would continue as now to provide free Estate Plan and External Boundary Approval services on request. These would continue, moreover, to be free services. Developers can check by this

means, before lodging the full design layout Estate Plan for registration, that the Land Registry will accept their view of ownership extents.

The LRAS service would be available alongside Estate Plan and External Boundary Approval services for developers and others who want professional help in drawing up the draft title plans before submitting them for advance approval or registration.

6.14 A provisional mapping strategy for the next 10 years

The suggestions discussed in this Chapter can be drawn together into a provisional mapping strategy for the next 10 years along the lines of Box 6.3.

6.15 Governance

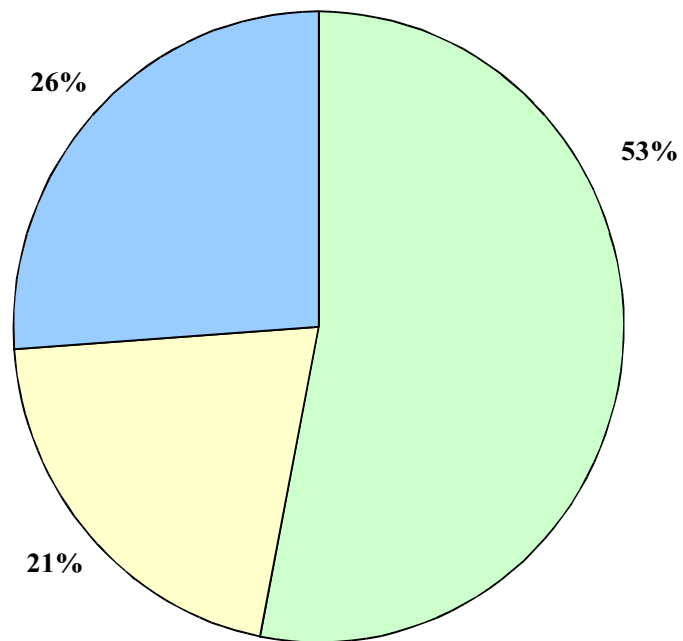
As discussed at the beginning of this Chapter, mapping lies at the heart of land registration.

It will therefore be important to ensure that

- both at Headquarters and in the District Land Registries, there are people at the most senior levels with real expertise and experience in mapping, and
- the Registry nurtures and develops a sufficient number of staff with the necessary skills in this important specialist area.

Even with digitisation, staff involved in mapping will continue to need considerable skills and judgement within a framework of expert supervision. At the time of first registration or creation of a new title on subdivision, these staff need to bring expertise, experience and judgement to bear on when to raise requisitions with the applicant, commission surveys or complete the mapping on the information available. When new survey material becomes available, moreover, similar skills are needed in judging whether new title plans can be substituted for old.

BOX 6.1
HOW REGISTERED PROPERTY BOUNDARIES ARE DEFINED
INTERNATIONAL PRACTICES COMPARED



- Precisely defined by co-ordinates
- Governed by general boundaries
- Both systems apply in different areas

BOX 6.2
POINTS OF GENERAL GUIDANCE FOR USERS OF LR MAPS

The Land Registry uses two kinds of maps: Title plans and Index Maps.

Title plans are an integral part of the Land Registry's Register and therefore have legal force.

The texts and title plans in the Register, taken together, define the location and extent of individual plots of land. The Land Registry guarantees on behalf of the Crown that the registered owner is the true owner of these plots or "extents".

Title plans show the general boundaries of the plots in question. They may also show restrictive covenants and rights of way over the land in the plot.

General boundaries define to a close approximation where the boundaries are but do not purport to define them to within the nearest inch or two

Examination of title plans is no substitute for inspecting the land and property itself.

The outlines of buildings within plots are indicative only and have no legal significance.

Title plans are based on the OS map. Most existing plans, however, are based on earlier versions of the OS map. It is not practicable to update them continuously in line with the many on-going changes in the OS map.

There may therefore be small discrepancies between title plans and the latest OS maps. But these will not generally be of any significance and do not constitute any basis for questioning existing boundaries that are clear on the ground.

The Land Registry has a programme to computerise title plans over an extended period. Owners will be consulted if the computerisation process raises any issues of significance for their properties but not otherwise.

Index maps are different from title plans. They do not purport to define boundaries.

These maps enable users to identify whether a particular property is registered and if so what the title number is so that they can access the relevant Register and Title Plan. They also show the general configuration of adjacent and neighbouring registered properties.

Index maps are mostly based on earlier versions of the OS map. A three-year programme of computerisation is beginning. This will enable them to be constantly updated in line with the OS maps.

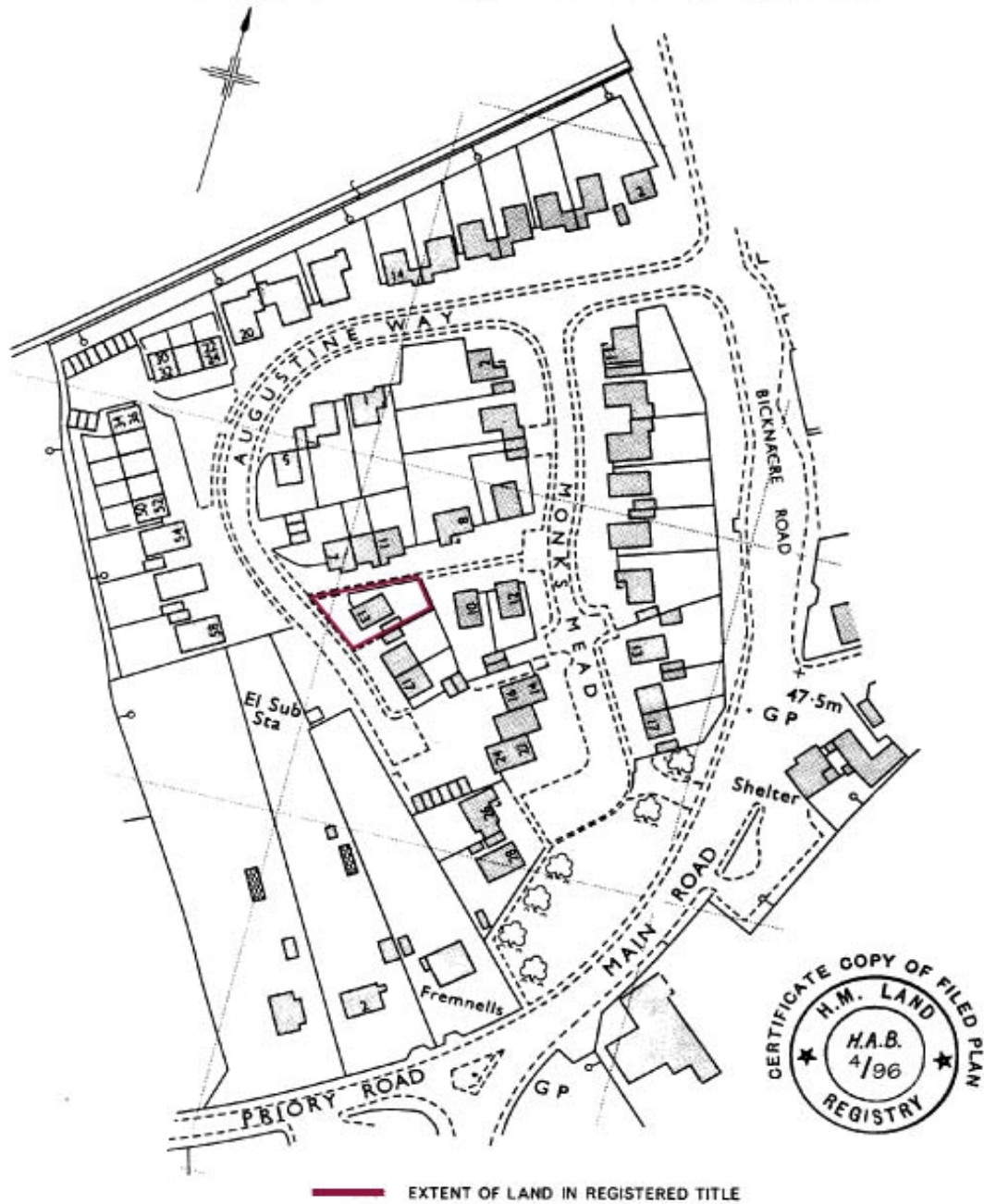
BOX 6.3
A PROVISIONAL MAPPING STRATEGY FOR THE NEXT 10 YEARS

<i>Target date</i>	<i>Strategic objective</i>
2001	
June	<p>Launch programme to vectorise index maps, with flagging of extents identical or virtually identical with title plans</p> <p>Clarify status of Title Plans and index maps in improved briefing with wider circulation for users of LR mapping, including LR website, NLIS and LR Direct</p> <p>Launch feasibility study for vectorising existing Title Plans including digital scanning of present scanned images into vector form</p> <p>Deepen co-operation with Ordnance Survey, especially in use of surveyors and sharing of information</p>
December	<p>Progressively introduce facility for overlaying index map over latest OS map and aerial photos, online or in acetate, as vectorisation of index map proceeds</p>
2002	
January	<p>Launch LR Advisory Mapping Service</p>
July	<p>Royal Assent (assumed) for New Land Registration Bill</p> <p>Begin to vectorise existing title plans where changes proposed</p> <p>Introduce and enforce requirement that proposals for new titles must include plans compatible with latest OS map</p>
2004	
June	<p>Complete vectorisation of index map and facility to overlay over coloured OS Map and aerial photographs</p> <p>Begin vectorisation of existing title plans</p>
2010	
October	<p>Vast majority of title plans vectorised</p>

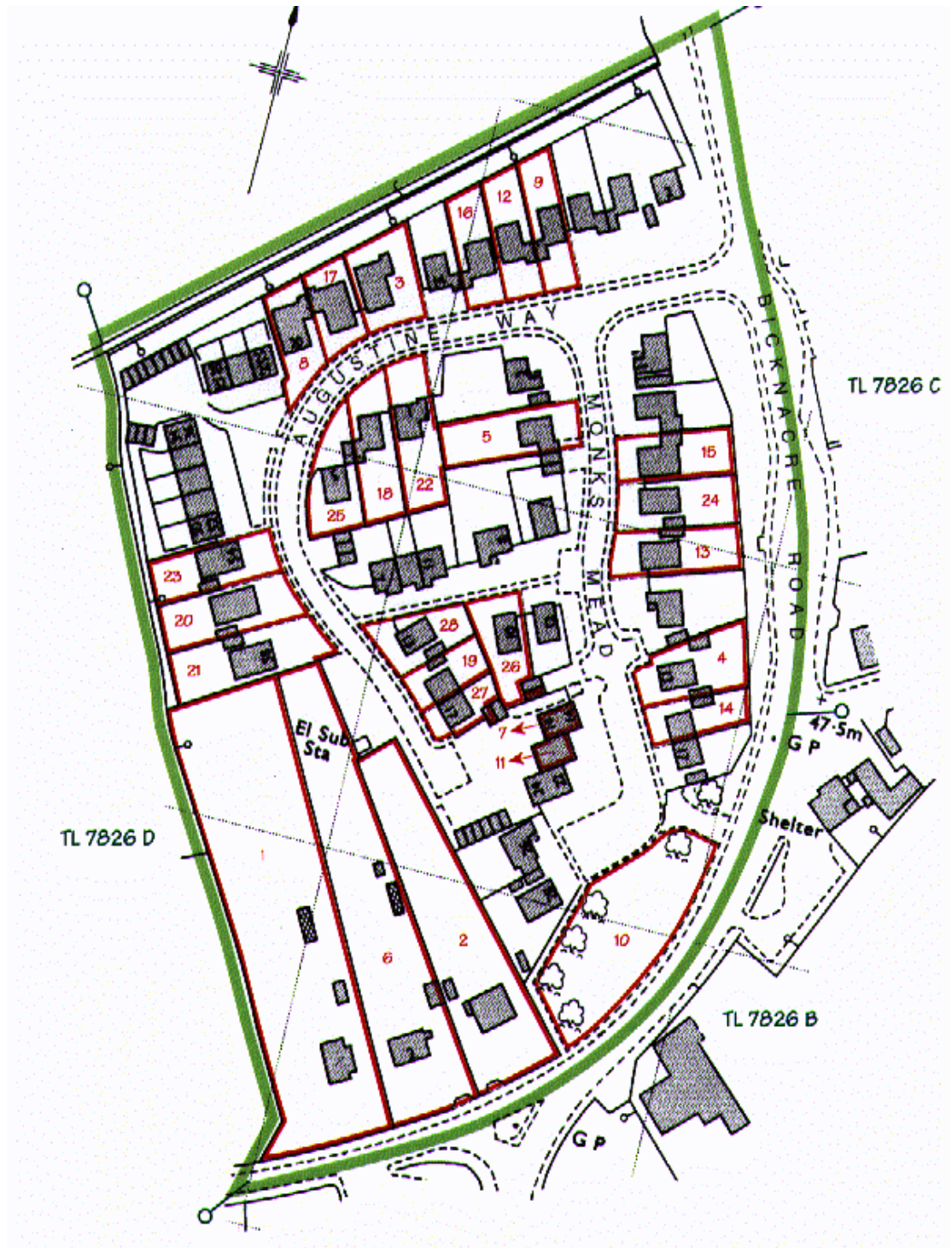
BOX 6.4
 (a) TRADITIONAL TITLE PLAN

Specimen Title Plan

H.M. LAND REGISTRY		TITLE NUMBER	
		CS72510	
ORDNANCE SURVEY PLAN REFERENCE	TL 7802	SECTION U	Scale 1/1250 Enlarged from 1/2500
ADMINISTRATIVE AREA		CORNESHIRE : MARADON	
		© Crown copyright 1977	



(b) A TRADITIONAL INDEX MAP



Not to scale

(c) ALDERNEY: OVERLAY OF DIGITAL INDEX MAP ON AERIAL PHOTOGRAPHS



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7 STRATEGY: AN e-REGISTER

7.1 Introduction

The Land Registry has made great progress in extending and computerising the Land Register in England and Wales. Over 96 per cent of nearly 18 million registers are now available online to customers. This Chapter and the following Chapter review the progress made so far and discuss possible strategies for carrying forward the e-revolution over the next five to ten years.

7.2 State of play

The Registry began in the mid-1970s the processes of computerising Register information which up to that point had been entirely paper based.

In the 1970s and 1980s, the objectives were seen as helping Registry staff to do more efficiently what they were doing already and to offer telephone as well as postal and personal access.

In the 1990s, the Registry saw that the new technologies would make it possible in addition to provide

- online access to Land Registry information including title plans from outside,
- online access to relevant information held by other holders of data relating to a property through a single portal or point of enquiry, and
- online applications for changes to the Register submitted in a form where they could be taken straight into the Register without reformatting after any necessary vetting.

Appendix A to this Chapter sketches the development of computerisation in the Registry so far. The main landmarks have been:

- Computerisation of the Index to the Land Charges Registers, recording charges on unregistered properties (launched 1974)
- Scanning of Land Charges registrations (about to start)
- Computerisation of the Land Register through the Computerised Application Processing System (CAPS) (largely completed)
- Scanning of title plans (largely completed)
- Scanning of “RR” documents referred to in the Register (in progress)
- Telephone searches
- Computerised credit accounts
- Computer mapping for new title plans and digitisation of index maps (just beginning)
- Direct Access online searches of the Register for account holders, recently upgraded to “LR Direct” (introduced in the mid-1990s)

- A National Land Information Service making available via one portal *all* information on particular land and property titles likely to be of interest to intending purchasers (about to go live)
- A de-materialisation programme to replace paper deeds and documents referred to in the Register with e-versions held only by the Registry
- Online lodgement or notification by practitioners of certain uncontroversial changes to the Register (just beginning).

Looking ahead, the Registry has begun to work on broader programmes for e-lodgement of applications, holding of certificates in e-form, and e-settlement of completion payments, with accompanying reforms in national systems for buying and selling property. These reforms, and sometimes the associated programmes for an e-Register, e-mapping and e-access to comprehensive information about particular properties, have come to be known as “*e-conveyancing*”.

7.3 Objectives for the next five to ten years

The pillars 3 and 4 Strategic Objectives discussed in Chapter 4 list a challenging set of objectives for the next five to ten years:

To make the Land and Land Charges Registers fully electronic and accessible electronically (texts, scanned title plans and supporting documents by June 2003, index map by June 2004, digitised title plans by 2010) and to promote, through a new structure with other public sector providers in partnership with the private sector, the one-stop National Land Information Service, available online to all, coupling information on the Land Register with other information relevant to users, especially buyers and sellers

To introduce “e-conveyancing” facilities of e-lodgement for changes in the Register (optional Jan 2003, possibly obligatory Jan 2004), electronic certificates and deeds (Jan 2003), and if possible electronic settlements at completion (Jan 2004 / Jan 2005), and to re-engineer the national systems for land and property transactions (transfers by registration and streamlined pre-contract stage from Sept 2005) with the help of a Joint Property Market Charter and Forum with other service providers (May 2002)

If the Government approves and the Registry can meet these objectives, the Registry would more than deliver the *Modernising Government* targets for making services available online:

- 25% of services by 2002, and
- 100% of services by 2005.

The Registry’s business plan for 2001-02 already includes a target for delivery of 40 per cent of Registry services by electronic means.

The Registry would likewise more than deliver the Government’s related objectives for improving and joining up delivery of services.

No less important, a programme on these lines, pursued in close co-operation with all the others concerned, would provide in England and Wales a national system for land and property ownership and transactions second to none.

The rest of this Chapter and the next Chapter discuss the state of play and the strategy for the period ahead in each of the main areas.

7.4 e-Registers, documents and plans

The Land Registry originally held registers of title on individual blue cards. These cards were updated manually using typewriters to insert new entries and red pen to cross out obsolete entries. A re-usable paper copy was updated at the same time as the blue card register to provide for a copy of the register to sew up in the land or charge certificate.

In the 1980s, the Registry saw that computerising the register would improve quality and accuracy, speed up processing and reduce costs. A project to computerise the old card registers was launched in 1986 and extended over the following six years to all District Land Registries.

Computerised titles differ only slightly from their card predecessors. The most obvious visual difference is that the Register now contains only current entries. Previously, unless a new edition was prepared, entries that no longer applied were crossed out.

When computerisation was introduced there were 10 million registers to convert. By the end of 2000, the Registry had converted 96.4% of its registers and the register population had grown to nearly 17.8 million titles. The Registry aims to complete the conversion process by the summer of 2003.

Within the registers, almost all title plans have now been scanned and are accessible on screen. Chapter 6 discusses the prospects for digitisation of title plans.

Where there are lengthy deeds that are relevant to titles, these are noted rather than reproduced on the Register. A copy of the deed is “sewn up” in the certificate. Past practice has been to keep these documents in separate “Register Referred” Files (RR Files) stored at the District Land Registries. Requests for such documents have to be processed manually by retrieving the file, photocopying the document and returning the file to the store.

In February 2000, after three and a half years of preparatory work, the Registry awarded a contract for electronic storage and retrieval of RR Files by scanning.

It is estimated that there are 9.9 million RR Files comprising at least 80 million images. At the time of writing, the electronic database holds 10.1 million images relating to 1.1 million titles. Plans are under way to make these available to LR Direct customers. The target date for completion of the project is July 2003.

A fuller account of these developments is at Appendix A.

7.5 e-mapping

The state of play on mapping and strategies for digitisation of the index maps and title plans are discussed in Chapter 6.

7.6 e-access for searches: Direct Access and LR Direct

The Land Registry saw the scope for e-access to the Register in 1990 when the Open Register Rules were made.

In May 1994, after two years of preparation, the Registry launched a pilot for a Direct Access Service (DAS) based on an intranet. This offered the following facilities:

- lodgement of Real Time Priority Official Searches of the Register
- lodgement of requests for office copies of the Register, Title Plan and Register Referred Deeds
- Register Views and (if required) subsequent access to the Daylist
- lodgement of Land Charges and Bankruptcy Searches
- lodgement of requests for office copies of Land Charges registrations
- a simple correspondence facility.

Over the following three years the service expanded to include some 200 users. The Registry added further facilities

- to enquire against a title number using a property description,
- to deliver a Search of the Index Map, and
- to request searches and copies of a registered title where the title number was unknown.

As demand for the service continued to grow, the Registry decided to outsource the security (administration of user identifications and passwords) and customer support services. A five year contract was awarded in June 1997 to Racal Telecom (who were bought out by Global Crossing in November 1999).

In June 2000, the Registry and Global Crossing launched an upgraded version of these facilities called LR Direct. LR Direct offers a more user-friendly and visually appealing product, based on web browser technology in a windows environment, with a more attractive tariff.

Further facilities were launched alongside LR Direct. These are:

- Title Plan Views (LR Direct only)
- lodgement of Matrimonial Home Rights Searches
- a standalone Daylist View facility.

Currently 2,836 organisations, including more than 10,000 individual users, access DAS or LR Direct on-line services.

Future plans include:

- encouraging DAS users to migrate to the LR Direct system,
- viewing Register Referred Documents,
- lodging simple dealing applications,
- receiving on-line results of Land Charges searches, and
- extending opening times for the system.

The LR Direct, LRD, contract provides for Global Crossing to provide account holders (in practice, mainly practitioners) with online access to all core items of Land Registry information online up to 2 February 2004. In the period to 17 June 2001, these rights are exclusive.

As discussed below, a separate National Land Information Service (NLIS) contract gives MacDonald Dettwiler too, as the NLIS “hub” provider, the right to supply such information online between 17 June 2001 and 2 February 2004

In the period to 17 June, 2001, therefore, LR Direct will have monopoly rights to supply core LR information online.

Between 17 June 2001 and February 2004, LR Direct and NLIS will both have the right to provide this information online. During that period, at least, there will, in effect, be a duopoly.

7.7 A one-stop “virtual” comprehensive land and property database: NLIS and NLPG

(a) Overview

The introduction of an electronic National Land Information Service, NLIS, and the accompanying project to collect local authority address lists together into a comprehensive single National Land and Property Gazetteer, NLPG, have been further major steps towards an electronic system for conveyancing.

NLIS is being designed above all (though it will be an internet facility with other uses as well) to enable conveyancers to launch a single, comprehensive search on behalf of buyers rather than a multiplicity of searches. NLPG will, among other things, support the NLIS project by enabling cross references to be made to other data sources through a system of unique national addresses or Unique Property Reference Numbers (UPRNs).

(b) Earlier ideas for a more comprehensive Register

From time to time over many years, the Land Registry considered the scope for extending the Land Register to include all the other main categories of information about land and property that buyers were likely to want. This other information would have included local authority information on charges and relevant planning permissions, Highways Authority plans and Valuation Office information on taxable values (Council Tax bands or rateable values for commercial properties).

The idea then, as now, was that prospective buyers, or their conveyancers, would preferably be able to find all they needed to know in one place rather than be obliged to consult several different sources of information, with the danger of missing important points.

For various reasons, this project was never pursued. Some particular impediments were:

- The project would have been very large, expensive and time-consuming, not least because all the agencies concerned use different property referencing systems and marrying them up was likely to prove a difficult and expensive process
- No single Government Agency quite felt that it had a locus to co-ordinate the information from independent agencies of central and local government in this way
- The Land Registry, in particular, had concerns about being held responsible for the accuracy of information supplied by others, even if the comprehensive Register had made clear that others bore the responsibility for the information they supplied

- For the Land Registry, again, the prior task, arguably, was to complete the geographical coverage of the Land Register itself before moving on to a more comprehensive subject coverage of the Register.

(c) *The NLIS project: birth*

In the early 1990s, after publication of the *Citizen's Charter* White Paper in 1992, the Cabinet Office invited the then Chief Land Registrar, John Manthorpe, to establish and Chair an inter-Departmental Group to carry forward the Charter policies in the field of land registration and searches.

The Group secured co-operation from other Government Departments and Agencies, including Ordnance Survey and the Valuation Office, and from the Local Government Association and the Local Government Management Board, later to be known as IDeA, the Information Development Agency for local government.

The Group succeeded in developing a possible alternative solution to earlier ideas for a comprehensive Register of information on land. The idea was to use the new e-technologies to develop, not an “actual”, but a “virtual” comprehensive database. This would take the form of an electronic facility enabling conveyancers to access information relevant to a particular property online from *all* the individual public service providers through a single point of entry, portal or desktop.

So far as I am aware, the term “virtual comprehensive database” was not used. But it captures the essence of the idea. Appendix B to this Chapter sketches the early history of the project.

The Group concluded that there should indeed be scope for developing such a “virtual” database.

The next question was how to make it happen. The Group concluded that the best way ahead would be to contract a private sector provider to construct and operate such a facility.

This in turn raised the question: what public sector body should act as client for the project. Whose responsibility should it be to select a provider, negotiate suitable contracts and manage them on behalf of all the public sector bodies concerned?

At this stage the central government bodies concerned, including the Land Registry and Ordnance Survey, all concluded that they had no *locus* to undertake such a task themselves and no *powers* to set up a corporate vehicle to act on their joint behalf.

The local authority representatives from IDeA, on the other hand, said that they had a ready made subsidiary corporate vehicle available, the Local Government Information House, LGIH. Local authorities are, of course, far more accustomed than are central government bodies to having to devise special vehicles to enable them to act collectively.

It was therefore agreed in summer 1999 that the LGIH should carry the project forward on behalf of all the public sector providers.

(d) *The NLIS project: contracting*

Since that agreement, LGIH, with help from the Land Registry, CCTA and a grant of £2 million from the Government's “Invest to Save” budget, has made rapid progress.

In September 1999, LGIH and the Land Registry launched through an OJEC notice an Invitation To Tender for the main NLIS “hub” contract. On advice from CCTA, it was decided to offer

- a single “*hub*” contract to operate a facility for collecting together and connecting up information from the various public sector providers about any particular property and making it available to the “channel” providers, and
- up to four “*channel*” contracts for making this information, together with any other information or advertising that the channel providers might wish to offer, available to practitioners and the public.

In July 2000, the Lord Chancellor announced that LGIH had selected MacDonald Dettwiler Limited (MDL) as the preferred bidder for the “hub” contract to supply the NLIS service for seven years.

Box 7.1 gives a visual impression of NLIS and LR Direct and their links to the Registry’s mainframe database.

(e) LGIH contract with MacDonald Dettwiler

LGIH has since concluded a hub contract with MacDonald Dettwiler. This gives Macdonald Dettwiler

- the right to provide a National Land Information Service hub for 7 years from commencement of service (on 2 February 2001) with an option to extend for a further 3 years. The contract licenses MacDonald Dettwiler to connect data providers to the NLIS hub and to connect the hub to the channel providers
- an exclusive right to provide LA searches online over 5 years
- an exclusive right, apart from the existing LR Direct contract, to supply core Land Registry information online from 17 June 2001 to February 2004 (the contract, still to be completed, allows for this exclusivity period to be extended in certain circumstances)
- a non-exclusive right to offer “associated data sets” through NLIS, by agreement with the data providers concerned (such as the Valuation Office, the Highways Authority, the Environmental Agency, the utility industries and non-core LR data sets including correspondence by e-mail and lodging of, and enquiries regarding, electronic notification of discharges)
- an obligation to reduce prices or devote resources to upgrading NLIS systems if the rate of return on the company’s investment in NLIS exceeds 15 per cent.

To help the new project get off the ground, the Land Registry agreed in July 2000 to fulfil its obligations set out in the hub contract. These included an exclusivity provision prohibiting the LR from contracting with third parties to permit electronic dissemination of its core data sets but specifically excepting the existing the existing contract with Global Crossing until 2 February 2004.

In return MacDonald Dettwiler agreed in the hub contract to pay £1 million straight away followed by a further £1 million a year to LGIH. It is understood that both the amount and the method of payment are at the time of writing the subject of re-negotiation. These sums in

practice broadly cover LGIH's running costs, though the Land Registry and IDeA support the budget by seconding staff to LGIH.

At the time of writing (January 2001), LGIH has let three "channel" contracts as well. These have gone to consortia led by MacDonald Dettwiler, Teramedia and PSA-Esri.

(f) The NLPG project

Local authorities have a statutory obligation to maintain lists of addresses for the areas where they have responsibility and for keeping them up to date. They depend on address lists (rather than geographical co-ordinates) for delivery of many, if not most, local authority services and for collection of council tax and business rates.

Local authorities have long had trouble in compiling and maintaining satisfactory lists of addresses. This is a considerable problem both for delivery of services and for collection of taxes. Separately from NLIS, therefore, and long before anyone had thought of NLIS, they made various attempts to solve the problem, with only limited success.

The NLIS project reinforced the case for action. A significant issue for NLIS is how to connect up information from disparate sources relevant to a particular property when each of the information providers has its own referencing system and the addresses, titles or parcels concerned do not always match.

LGIH decided that the way ahead was to launch a project for a *National Land and Property Gazetteer*, NLPG.

The NLPG project involves persuading local authorities to convert their existing lists of addresses, or Gazetteers, into a national system of addresses held electronically, constructed to common standards and based on unique property reference numbers (UPRNs) for each property.

LGIH created a partnership with a private sector company, Property Intelligence, to act as its main agent for the development, maintenance and dissemination of such a Gazetteer. The task includes co-ordination of the assignment by local authorities of UPRNs. Intelligent Addressing, a subsidiary of Property Intelligence, offers a service to help individual local authorities to organise their data.

(g) Persuading local authorities to co-operate

Both the NLIS and the NLPG projects depend on persuading individual local authorities to co-operate. The LGA, IDeA and LGIH have no powers to oblige any individual local authority to do anything.

In most property searches, local authority information is probably the second most important set of information for a prospective buyer after the Land Registry information. But many local authorities do not at present hold this information in convenient forms. Much of it remains paper-based. If the NLIS search system is to work as intended, therefore, upgrading the quality and accessibility of local authority information has to be a major priority.

In practice, local authorities have generally been enthusiastic about developing more comprehensive Gazetteers of addresses for the NLPG. Local authorities need robust and comprehensive address lists for a variety of purposes. In several cases, the activity on the

NLPG has already enabled them to identify previously unnoticed or forgotten properties on which council tax (or business rates) should be paid but is not being paid.

Some local authorities have been more reluctant to devote resources to modernising their searches information, and the way it is held, for NLIS. LGIH and MacDonald Dettwiler have therefore been concerned to encourage co-operation by such authorities, not least by arranging a financing facility on favourable terms with the Royal Bank of Canada.

The Government, too, has encouraged local authorities to make this and other local authority services available electronically by setting up a £350 million fund to help local authorities trying to deliver such an outcome by 2005. The Government has not so far explicitly said, however, that it looks to all local authorities to deliver this outcome by 2005.

(h) Issues

The NLIS hub facility has been available since 2 February 2001. Initially the service will have some limitations. In particular:

- For the months up to June 2001, when an exclusivity agreement between the Land Registry and Global Crossing under LR Direct expires, NLIS will deliver Land Registry searches in paper format rather than online.
- On present prospects, it may be some years before all local authorities will be supplying online searches information to best international standards.

In my opinion, however, the NLIS model is a very good one. When the initial limitations have been overcome, it will offer a world-class national system for conducting searches, far more comprehensive, faster and more convenient than present systems.

There are two issues in relation to NLIS and related matters that will need in my opinion to be resolved sooner rather than later:

- *Governance*

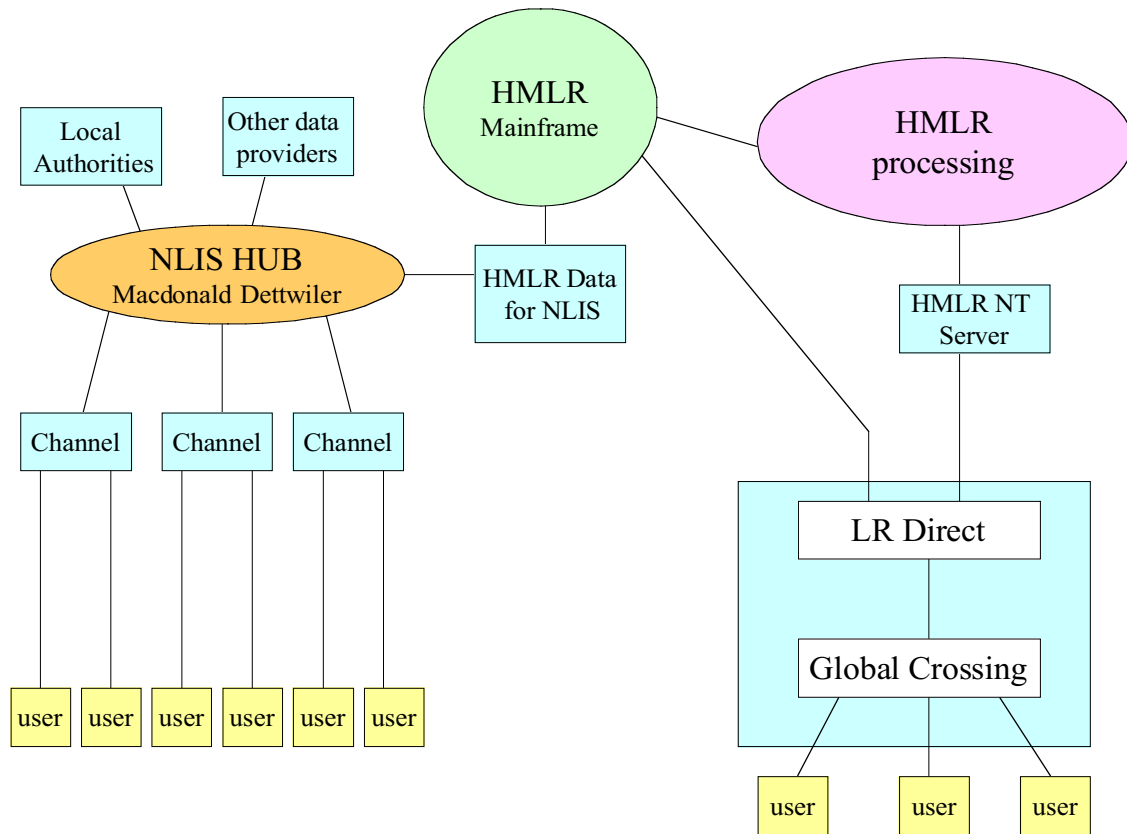
The LGIH corporate vehicle which negotiates, concludes and manages the NLIS and related contracts is a local authority body in which central government bodies formally at least have no say, other than in their role as providers of information. In my opinion, the body which contracts this national system for one-stop searches ought preferably to bring together the interests of the central and local government bodies concerned, with suitable arrangements for governance and accountability. The present governance arrangements need therefore to be reconsidered. Chapter 14 discusses this matter further.

- *Powers to ensure co-operation.*

The absence of any powers to ensure co-operation by local authorities in constructing a world-class national property searches routine may still turn out to be a problem for the NLIS and NLPG systems. It may be possible to deal with this issue, if necessary, alongside the governance issue.

The Government should anyway consider giving a still firmer lead than at present under the Best Value programme in looking to local authorities to make high quality, register-based search services available electronically by 2005.

BOX 7.1
NATIONAL LAND INFORMATION SERVICE AND LR DIRECT
LINKS TO THE LAND REGISTRY DATABASE



COMPUTERISATION SO FAR AT THE LAND REGISTRY

Note by John Manthorpe

Until 1974 the Land Registry's records and procedures were wholly paper based. In that year the Registry computerised its Land Charges Registry Index enabling the introduction of, what was then, a revolutionary system of telephone searching for those seeking to establish whether or not third party interests subsisted on unregistered land. It also computerised a number of stand-alone systems to facilitate internal operations.

In the 1980s the Registry developed its main Computerised Application Processing System (CAPS) whereby the land register for England and Wales would be progressively computerised. The objective was seen, initially, as helping the Registry to do more effectively what they were doing already and, in particular to store, access, provide and update the land register information more efficiently. Parallel developments in scanning mapping records assisted with internal processing.

In 1986 the programme to convert land registers to computer format began and was progressively implemented throughout the Land Registry's regional offices. Once a register was computerised all internal transaction and enquiry processing was done by staff using terminals.

The Registry realised that by making access to the land register available directly through Registry telephone call centres, but also online to customers, considerable benefit in speed of service and productivity could be achieved. The development of the computerised credit account system already in place for the Land Charges searching was extended to customers of the Registration of Title systems. The Land Registry Telephone Searching system and the 'Direct Access' system were launched, respectively, in 1991 and 1992. Now over 17 million computerised registers can be accessed instantly by telephone and on-line by any user who has a credit account. They are billed monthly for the searches and enquiries they make and the copies they take.

The Land Registry Direct Access and Telephone Searching systems transformed access to land information for customers especially those operating in the conveyancing and mortgage markets. Substantial savings in manpower and costs have also resulted from the streamlined internal processing of transactions. Because of the increasing demand by customers to participate in the Direct Access system the Land Registry engaged, in 1997, a private sector partner, Racal Telecom (now Global Crossing), further to extend and market the service. The Direct Access Service has now been upgraded and re-branded as LR Direct.

The great majority of the Land Registry's Index Maps and Filed Plans have been scanned to facilitate access and to enable official copies to be taken internally or by customers. These scanning systems offer useful, but limited, benefits.

The main gains in terms of updating and customer access, and therefore speed and productivity, will come from the recently introduced project to use computer mapping for first registration of new titles and the forthcoming project to create fully vectorised Index Maps. Also important will be the vectorisation of the existing stock of Title Plans (see Chapter 6).

ORIGINS OF THE NATIONAL LAND INFORMATION SERVICE, NLIS

Note by John Manthorpe

In 1992 the then Chief Land Registrar was invited to propose a draft paragraph on potential developments in the Land Registry that could be included in the Government's White Paper on the Citizens Charter. The objective was to identify new initiatives which would contribute to the then Government's policies of improving public services.

As a result the Citizens Charter White Paper, published in November 1992, included the following government commitment in respect of land registration:

'We propose to explore ideas for completing the land register and bringing together information held by the Land Registry and other public bodies. This would help speed up, simplify and promote security in property transactions and bring details of all land ownership into the public domain. A national land information system may be one way to allow the citizen faster and easier access to an authoritative, accurate and comprehensive public record of all land and property'

In 1993, the Government's Citizen's Charter Unit invited the then Chief Land Registrar to bring together an inter-departmental group of public bodies with a leading role in maintaining information about land and property. The remit was to carry through the objectives expressed in the White Paper.

The Project Board, chaired by the Chief Land Registrar, met regularly and included senior representatives from the Valuation Office, the Department of the Environment (now DETR), the Ordnance Survey, the Local Government Management Board (now LGIH / IDeA) and also the RICS.

The Project Board established three priority tasks.

- first, the need to identify the range and nature of all existing public land information records,
- secondly to promote the development of a standard unique property reference numbering system (UPRN) for all properties and,
- thirdly, to develop a pilot demonstrator system of a prototype NLIS.

Each of these objectives was achieved under the direction of the NLIS Project Board. In co-operation with others, the Land Registry financed, and its Computer Division developed, the prototype system which enabled access to live information at a number of key organisations. The Land Registry team demonstrated this system extensively throughout the country and it later became the basis for the co-operative live pilot system in Bristol.

NLIS offers in effect a more comprehensive "virtual" land and property database. The idea has been to use the new technologies to bring together online, and to make available via one portal all information on particular land and property titles likely to be of interest to intending purchasers and others.

The information was to include not just the Land Registry information but also information from local authorities on land charges, planning applications and other matters, and information from the Valuation Office on taxable values, and other relevant information from other sources, cross referenced to topographical and address information held by the Ordnance Survey

It was clear that, technically, the system could deliver what was expected in the way of one-stop access online by customers to a number of separate land information databases held in different organisations. The future rate of access availability would, however, depend on the pace at which local authorities could establish UPRNs to a standard format and computerise their records.

What was not so clear was how such a concept was to be managed and financed. The government bodies felt that they had no locus to undertake such a task themselves and no powers to set up a corporate vehicle to act on their joint behalf. The local authority representatives from IDeA, on the other hand, said that they had a ready-made subsidiary corporate vehicle available, the Local Government Information House, LGIH. It was therefore agreed that the LGIH should carry the project forward on behalf of all the public sector providers.

LGIH took the lead accordingly in conducting a tendering process for a private sector partner to deliver the proposed system. In July 2000, the Lord Chancellor announced the selection of MacDonald Dettwiler as the preferred partner. LGIH then negotiated a contract with them and the proposed system is due to go live in 2001.

BETWEEN COMPLETION AND REGISTRATION:
THE “REGISTRATION GAP” AND THE PRIORITY SYSTEM

Note by John Manthorpe

The ‘*Date of Registration*’, either of the land itself when it was first registered, or of any subsequent entry, relating for instance to a mortgage or other burden or right, is recorded on the register. The date is important because it determines the *priority* of each such entry. This can be significant. For instance in the case of the repossession of the property by the first mortgagee, the date of registration of any further charges would determine the priority entitlement of these secured creditors to the residual proceeds of sale.

The date of registration is deemed to be the date on which an application for registration of the land, or of any new entry, is received at the proper district office of the Land Registry. On the day of receipt all applications for registration are ‘logged’ on the ‘DayList’ against any relevant titles affected. This ensures that any subsequent enquiry or search against a particular title will reveal not only the entries as recorded on the register but also the existence of any pending application being processed in the Registry relating to that registered title.

Priority is particularly important at the time of a sale and purchase. The purchaser (and the lender if the purchase is to be supported by a mortgage) need to know exactly the state of the vendor’s registered title in which they contemplate taking such a valuable interest. They need to know too that no adverse entry is registered *between* contract and completion and *between* completion and the date on which the application to register is received by the Land Registry.

Although in practice there may be little likelihood of any such adverse entries (for instance the vendor taking out a further loan, a ‘hostile’ entry relating to a bankruptcy of the vendor, or a statutory registration by a public authority in relation to the property) in theory, and very occasionally in reality, such events, adverse to the purchaser, could arise.

To protect against such a risk the Land Registry developed, in 1930, special procedures whereby it will issue, in response to a formally submitted application, a ‘*Certificate of Result of Search with Priority*’. Such a Certificate is guaranteed and admissible in Court as evidence. Its purpose is explained below. The usual sequence of events is as follows:

Once instructed by the parties to a prospective transaction the vendor’s solicitor will apply to the Land Registry for an up to date ‘*Office Copy*’ of the register, of the title plan and of any deeds referred to in the register of the property. These copies will be provided by the vendor’s solicitor to the solicitor acting for the purchaser. They constitute guaranteed evidence of title of the subsisting registered interests relating to the property. The date on which these entries are guaranteed is critical. This is usually the day immediately preceding the receipt by the Land Registry of the application from the vendors solicitor.

On this basis the parties will proceed to contract. Immediately prior to completion the solicitor for the purchaser (and mortgagee where appropriate) will apply to the Land Registry for an ‘*Official Search with Priority*’ of the Register. The form of application invites the solicitor to indicate the nature and the parties to the transaction to be protected and the date of any earlier Office Copy already issued. The Land Registry will provide a *Certificate of Result* indicating whether any adverse entries have been made on the register since that date.

This Certificate of Result provides the solicitor with up to date and guaranteed information about the state of the register. Assuming that the Registry has certified that there are no

adverse entries, completion can go ahead. But of course the purchaser's (and mortgagee's) solicitor still has to make the formal application to the Land Registry for the new interests to be registered. However, there can be a 'gap', however small, between the date of result of an official search, completion and the lodging of the application for registration. In strictness there would still be a risk that some adverse entry could be made on the vendors register before the Land Registry received the application to register the new interests.

To deal with this situation and to protect purchasers and others, the *Certificate of result of an Official Search with Priority* provides the solicitor with 30 working days in which to make the application to register the new interests. This has been described as 'freezing' the register during that priority period against any other application other than that 'protected by' the official search. If any other application against the affected title *is* received by the Registry during the period covered by the issue of a protecting Certificate of Search Result, such application is 'postponed' to follow the protected application – or the expiry of the 30 day period if the protected application has not been received.

This statutory device provides the essential protection to those dealing in land, especially purchasers and mortgagees, which enables them to proceed with confidence through the stages of contract, completion and registration (when the legal title passes to those acquiring the new interests).

Over 2.5 million guaranteed Certificates of Official Search were issued by the Land Registry in 1999-2000 protecting purchasers and mortgagees and others acquiring new interests in land and property. This is a central feature of the machinery of conveyancing and the effective functioning of the land market. It depends entirely on the Guarantees provided by the Land Registry and this in turn is only possible because of the Registry's internal systems.

8 STRATEGY: e-CONVEYANCING

8.1 e-conveyancing: objectives and game plan

Ministers have repeatedly made clear their wish to see the development of e-conveyancing as well as an e-Register and a national system for e-searches.

The concept of e-conveyancing, however, remains under-specified. It is not yet totally clear what the basic elements of an e-conveyancing system will be or how they should be deployed. It is even less clear what accompanying changes should be made in the national systems for registration and for buying and selling properties.

The lack of clarity is understandable. It is not totally obvious how an e-conveyancing system will best be developed nor what changes in wider national systems should accompany it.

In my opinion, it is helpful to see an e-conveyancing system as comprising four main elements:

- i. *e-lodgement* of applications for changes in the Register
- ii. *e-certificates and deeds*: replacement of paper Certificates and Deeds, held by owners or practitioners, with electronic versions held by the Land Registry
- iii. *electronic settlement of payments due* between all the parties concerned in property transactions, especially at completion, and
- iv. *accompanying improvements in the wider national systems* for property transactions made possible by these advances in e-technology.

Box 8.1 offers a visual impression of the four elements.

In this as in most other areas, the starting point should be to define the strategic objectives and a game-plan.

In my opinion, the Registry would do well to set four strategic objectives corresponding to the four main elements in an e-conveyancing system distinguished above:

- (a) *e-lodgement*: to make the processes of registering ownership, transfers and other changes as effective, efficient and economic as possible, and also as swift and user friendly as possible, with the help of the new technologies
- (b) *e-certificates and deeds*: to minimise burdens, anxieties and costs for owners, conveyancers and lenders by a facility for holding deeds, notably land and charge certificates, at the Registry in electronic form with suitable back-up
- (c) *e-settlements*: with the help of the new technologies, to introduce new and modern systems for settlement, preferably instantaneous, of the matrix of

payments associated with house sale and purchase, especially those due on completion

- (d) *wider process re-engineering*: if possible, to use the opportunities provided by the new technologies to re-engineer the wider national systems for property transactions, in particular the buying and selling of houses and registration, for the benefit of all involved in such transactions.

In my opinion, again, these objectives should be pursued within a framework of carefully assessed business plans and evaluation of costs and benefits. This needs to be part of the remit of the Task Force for e-conveyancing (see below).

At the time of writing, e-lodgment looks to be an essential ingredient in any programme for e-conveyancing. It is concerned with the interface between the Registry and practitioners.

E-certificates and deeds, similarly, look to be an essential ingredient. E-lodgement and e-certificates and deeds, taken together, will transform the tasks of conveyancers and lenders as well as removing anxieties from owners.

E-settlements likewise look to be an important ingredient in any comprehensive programme for e-conveyancing. An e-settlements system will preferably involve all the main parties to house sale and purchase transactions, not just transactions between the Registry and practitioners.

Wider process re-engineering, while not an essential ingredient of e-conveyancing, offers possibly the greatest benefits of all. It should be possible, with the help of the new e-technologies, to improve the wider national systems for housing transactions in England and Wales and make them second to none. The prizes to be won from such improvements will make the introduction of e-conveyancing doubly or trebly worthwhile.

With regard to the game-plan, the Registry may find it helpful to distinguish three phases, probably overlapping, for delivery of the objectives suggested above:

- *Phase One* would consist of preparation and implementation of the e-lodgement and e-deeds facilities, and if possible e-settlement facilities, in close consultation with all the others concerned.
- *Phase Two* would be to make some, at least, of the facilities introduced in Phase One obligatory.
- *Phase Three* would be to re-engineer the wider processes. Preparation and consultation for this Phase would begin straight away. The Registry would take the lead in preparing, modelling, evaluating, consulting on and refining possible models for a re-engineered house buying and selling market. There should be extensive consultation and discussion with practitioners. But implementation would follow successful implementation of Phases One and Two.

This game-plan might be flawed if decisions on the Phase One and Two reforms were likely seriously to prejudice decisions on the Phase Three reforms. In practice, however, that does not seem likely to be a problem.

8.2 e-conveyancing: e-lodgement facility

As suggested above, e-lodgement of applications to the Land Registry would be the first element in the e-conveyancing programme. The initial step would be to introduce the necessary facilities:

- (a) a facility for *e-lodgement by practitioners of applications* for changes in the Register, with the help of e-signatures and authentication to prevent fraud
- (b) a facility whereby the Registry can *respond* with electronic confirmation, rejection or requisition of such applications and new Register entries, either in draft or in final form

These facilities would offer significant advantages compared with present paper-based systems.

- i. *Reduced work, especially for the Registry.* It should be possible, after any necessary vetting (see section 8.4), to feed information from e-applications in the prescribed format directly into the Registry's database. This could largely eliminate one of the Registry's most time-consuming tasks.
- ii. *Reduced errors by conveyancers.* As noted in Chapter 5, more than 50 per cent of applications to the Registry contain some error or omission. It should be possible to eliminate most of these by designing software to prevent inconsistencies and omissions and to calculate Registry fees and stamp duty payable.
- iii. *Reduced errors by the Registry.* It should likewise be possible to reduce errors by the Land Registry, especially those associated with re-inputting of data.
- iv. *Reduced costs.* The reductions in work required and, no less important, in errors made, would significantly reduce the Registry's costs. Practitioners' costs should fall as well.
- v. *Fraud prevention.* With suitable provisions for e-signatures and authentication (see section 8.3), possibly accompanied by reform of the Regulatory structure (see section 8.5), it should be possible to reduce the scope for fraud compared with the present paper systems.

Use of the e-channels of communication would initially be optional, not obligatory. Both the Land Registry and other practitioners in the market could and probably would initially continue doing pretty much what they do at present. Procedures for buying, selling and leasing would remain much as now apart from the changes in the means of communication for those who wished to avail themselves of the new facilities.

E-lodgement could be seen as a minimalist interpretation of e-conveyancing. Even with this minimalist option, however, there are important prizes to be won, as described above.

There are also several important issues that will need to be addressed up front. When the other elements in the programme are added, they will be all the more important. The issues include:

- e-signatures and authentication,
- vetting or non-vetting of applications to change the Register, and
- licensing or contracting of conveyancing professionals.

8.3 Issues arising: e-signatures and authentication

To prevent fraud, and possibly corruption of systems, any practitioner using the e-options would need to have e-signatures and authentication which the Land Registry could recognise and check.

The e-commerce or Land Registry legislation will need to permit *e-signatures* for this purpose in substitution for the actual signatures presently required. The technology of e-signatures will likewise need to be resolved. The DTI and the Office of the e-Envoy have been working on Government-wide systems which the Land Registry wishes to follow.

With regard to *authentication or accreditation*, the Registry will need to be sure that the practitioners who are allowed to submit applications with e-signatures are bona fide professionals subject to appropriate regulation by their professional bodies. It may also be necessary to make provision for practitioners to e-sign transfers and other important matters on behalf of their clients under a power of attorney.

The Land Titles Department and the Law Society of British Columbia have well-developed plans for e-signatures and authentication in the context of e-lodgement which could provide helpful exemplars alongside the systems being developed by the DTI and the e-Envoy.

8.4 Issues arising: vetting vs non-vetting of applications for Register entries or changes

The Registry would have the option to vet or not to vet applications for new Register entries or changes in the Register. Vetting could in principle take the form of personal checking by a member of the Registry's staff or, for simpler applications, computer vetting in accordance with internally constructed vetting programmes.

There are some categories of transaction, notably first registrations of previously unregistered land and transfers of part of an existing title, where Registry staff will always have personally to vet what is proposed. The Registry will always need to ensure that it is not taking on unreasonable risks in providing the standard guarantee of title on the titles concerned.

At the other extreme there are certain areas (not involving new registrations or transfers of title) such as notifications of discharges of mortgages by lenders, where it *may* be possible to consider taking new information from practitioners directly on to the Register after only a minimum of vetting without any significant risks to the integrity of the Register or calls on the guarantee scheme.

With regard to mortgage discharges, in particular, practitioners applying for the change could hardly have any selfish motives for feeding in the wrong information. In addition, simple mistakes could be picked up electronically and would be unlikely to be damaging even if they did occur.

As discussed above, therefore, the Registry already has plans in these cases to enable proposals by practitioners submitted in electronic form to pass to the Register with a minimum of vetting. In other areas, too, standard checks through computer assisted vetting may well be possible.

In all such cases, outside practitioners, including lenders as well as conveyancers, would submit proposed changes in an e-format which could be passed into the Register after such vetting as may be needed without any need for re-formatting. Registry staff would as a minimum, however, personally assess cases identified as problematic in the computer checks.

Some have suggested that the Registry should go further and allow outside practitioners to change the Register without vetting of any kind.

In my opinion, the Land Registry should not go so far as this. Some form of vetting, even if it consists only of simple computer checks, should be retained for *all* applications for changes to the Register. Such vetting is needed to protect the Registry's computer systems against viruses as well as to identify obvious mistakes such as inconsistencies with other Register entries.

8.5 Issues arising: licensing or contracting of conveyancing practitioners

The more transactions the Registry accepts on to the Register with only minimal vetting, the more important it will be to ensure that only genuine, responsible, qualified and fully competent professionals would be able to make such entries and changes.

The Registry clearly needs to minimise the risk of accepting applications from persons pretending to be conveyancers when they are nothing of the kind. This risk is present in existing systems. In electronic systems, the risk will be multiplied unless action is taken to deal with it.

The Registry also needs to be as sure as possible that lightly vetted applications will be professionally made and not contain errors which might later cause trouble, including calls on the Registry's guarantee.

The Registry has therefore envisaged that it may be necessary to introduce arrangements not only for e-signatures and authentication of persons submitting

applications but also for some special licensing or contracting. Only specially licensed or contracted conveyancers would be permitted, on this approach, to make e-lodgement of applications for changes in the Register.

The Registry is clearly right to be concerned about these matters. Under present systems, the Registry already relies heavily on its practitioner customers being genuine, honest, diligent and professional. In an electronic world, this reliance will become more than ever important.

In my opinion, therefore, a regime of the kind envisaged for licensing or contracting conveyancers to use the new systems is certainly an option worth considering.

But setting up and maintaining a special licensing or contracting system would be a major task, not to be undertaken lightly. It would be necessary to ensure at the outset that the authorised conveyancers are fit and proper persons, with suitable qualifications, experience and professional record, and that they have mastered the techniques for making the Register entries. A considerable programme of on-going monitoring would be needed thereafter.

An alternative option would be for the Registry to ask the Regulatory bodies for conveyancers, the Law Society (for solicitor conveyancers) and the Council for Licensed Conveyancers, to look after the Registry's requirements as well as the other regulatory requirements. The Registry would then be able to allow any licensed and regulated practitioner to access the Register without the need for an extra licensing or contracting process.

In principle, this alternative approach would have much to commend it. A practical issue is that the main Regulatory body for conveyancers, the Law Society, is not just a Regulator but also the professional association for solicitors, including conveyancing solicitors. The Law Society is also part of the Consortium that won the contract for delivery of the NLIS system. It would be necessary to ensure that the Law Society would realistically be in a position to set the necessary standards and to deliver the necessary enforcement, including on-site inspections and a willingness to suspend licences.

Licensed conveyancers, on the other hand, do have a Regulatory body, the Council for Licensed Conveyancers, that is purely a Regulator.

A variant on this option would be for some combination of the Government, the Law Society and the Council for Licensed Conveyancers to set up a single, dedicated Regulatory body, not doubling as a Professional Association, to regulate the activities of all professional conveyancers, whether solicitors or not. This would accord well with modern principles of financial regulation, which concentrate on regulating persons who carry out particular activities rather than persons belonging to particular professional groups. Such a body could more readily be mandated to authenticate and accredit conveyancers to interface with the Land Registry's systems in addition to its other regulatory responsibilities.

This would, however, be a considerable reform, which would need to be considered in a wider context.

For lenders, similarly, a possible option might be to ask the Financial Services Authority, FSA, to the extent necessary, to monitor this alongside other aspects of lenders' activities.

Another option put to me was that anyone who so wishes should be allowed to submit electronic applications direct to the Registry and there should be no restrictions on access.

As discussed in the 1998 Consultative Paper, this seems barely a realistic option. Especially in an electronic environment, the possibilities for abuse, and the risks to the Registry's Indemnity Fund, would be too great. To counter such risks, the Registry would need to multiply expenditure on checking customer identity and authenticity and confirming the validity of the transactions they apply to register. As discussed above, an electronic system with reduced vetting will rely even more heavily than the present system on customer practitioners being honest, diligent and professional.

As also discussed in the 1998 Consultative Paper, there is a case for continuing to allow those who wish to do their own conveyancing, without using professional practitioners, to do so. But the Registry itself will need to provide a special facility and checking system in order to keep open such an option in the electronic world without running unacceptable risks. Chapter 10 discusses what form such a facility might take.

Whatever solution may finally be chosen, the proposed new Land Registration Bill should preferably keep the options open by allowing for the possibility of licensing conveyancers and lenders indirectly, through the present Regulatory bodies or an alternative Regulatory body, as well as directly.

8.6 e-notification of discharge of mortgages (ENDs)

The Registry launched in September 1998 what may be regarded as a precursor or trail-blazer for e-lodgement of applications to change the Register. This was the scheme for electronic notification by lenders of the discharge of mortgages (ENDs).

Under the ENDs scheme, designated users in the lending institutions may send an electronic message to the Registry through DAS or LR Direct (see Chapter 7) confirming the discharge of a mortgage (and requesting its removal from the Register) instead of sending Form DS1 (Discharge of a Mortgage).

Lenders can only use the system to discharge charges belonging to their own organisation. The computer system checks the title number, charge date, borrower's name and confirms that there is a matching entry on the Register of Title before accepting an END.

Forty five lenders now use the ENDs facility. Two more plan to join by April 2001.

From the few hundred ENDS initially received the Registry now processes on average 31,000 ENDS monthly. This figure is expected to rise further as more lenders join the scheme.

8.7 e-Certificates and Deeds

The second major component in the e-conveyancing system sketched earlier is the replacement of paper certificates and deeds held by lenders, practitioners or owners with electronic equivalents held, with suitable back-up facilities, by the Land Registry, and readily printable in case of need. Especially important in this connection would be Land Certificates and Charge Certificates.

There would be four particular advantages in replacing paper certificates in this way with readily available electronic versions held by the Land Registry:

- i. *Reducing anxiety for owners.* Holding such certificates, and having to produce them from time to time, is an anxiety for owners of property. Lost certificates are a common problem, often causing stress for those concerned as well as extra work for the Registry and others.
- ii. *Reducing storage for lenders and conveyancers.* For lenders, in particular, but conveyancers as well, storage of such certificates and related documents is hazardous as well as expensive. Experience suggests that they too are prone to lose certificates and are not readily able to deploy back up facilities.
- iii. *Reduced costs for lenders, conveyancers and customers.* Storage, retrieval and replacement of lost certificates are expensive as well as stressful. With the new technologies, the Land Registry is able to take on this role more economically and effectively, with better back-up facilities, than the private sector providers.
- iv. *Enabling paperless transactions.* Without this facility, all property transactions will continue to require transmission of papers between practitioners and the Land Registry, thus precluding delivery of e-conveyancing in its fullest consummation.

The Registry would recover the costs of providing the facility in the normal way, by charging a small fee for accessing the de-materialised certificates and other documents.

Here too a beginning has been made with the Land Registry's recent initiative, alongside the ENDS initiative, to introduce "de-materialisation" of Lenders' Charge Certificates.

Under the ENDS system, lenders wishing to remove discharged mortgages from the Register have still to send the Registry the paper charge certificates concerned together with a form of application for discharge, though designated users at the Lending institutions can send the message via DAS or LR Direct.

Under the dematerialisation procedure, the Land Registry issues no paper charge certificate in respect of specified types of charge where the lender so requests but holds the certificates electronically, in effect, on their behalf. An entry recording this is made in the Charges Register of the title.

This is consistent with Section 63 of the Land Registration Act 1925, which requires the Registry to hold a charge certificate if requested to do so.

In cases where lenders subsequently need a charge certificate, for example for Court proceedings, the Land Registry will prepare one but only with the written consent of the lender. If the Courts agree that office copies of such certificates are sufficient, even this may be unnecessary.

The Land Registry introduced the de-materialisation facility in November 1999 in response to requests by, and after consultation with, lending institutions. Lenders generally are now keen to use this facility which has the potential to save a high proportion of their storage and deeds handling costs. There are now eight lenders who have dematerialised all or some of their mortgage products. A number of others will be joining the scheme during 2001.

For security reasons, a condition for joining the dematerialisation scheme is that the lender uses the ENDS facility to give notice of a discharged mortgage.

A future development, at least equally significant, will be the introduction of analogous formal procedures for dematerialisation of *land certificates* at the owner's request.

If both land certificates and charge certificates can be phased out over time, lodgement with the District Land Registries of physical applications with paper deeds will become unnecessary. The full potential of e-lodgement will then be realised.

8.8 e-conveyancing: electronic settlements at completion

The third major element in a fully developed e-conveyancing system would be the introduction of a facility for *electronic settlements* broadly along the lines of the CREST system for stock exchange transactions.

One cannot be certain at this stage what form an electronic settlements system would best take. In principle, however, it would preferably enable the whole nexus of payments associated with a property transaction to be agreed in advance and then settled electronically and with immediate effect at the time when all the funding is confirmed as being available and the transaction is completed.

A possible model would be for a clearing house with associated trust (or escrow) arrangements to oversee the system. The clearing house would execute the settlements simultaneously on the agreed day of transfer provided that all parties had signified agreement, all the funding was in place and all the transactions were consistent with each other. The associated trust facility would be available to hold funds as required pending settlement.

As illustrated in Box 8.2, the main payments to be settled would be:

- Payment by the buyer's lending institution of the mortgage loan to the seller or the seller's lending institution
- Payment by the seller of:
 - the discharged mortgage loan to the seller's lending institution
 - any conveyancing fees
- Payment by the buyer of:
 - any deposit on the seller's property to the seller or his representative
 - the remainder of the purchase price to the seller or his representative
 - Stamp duty to the Inland Revenue
 - Land Registry fees to the Land Registry
 - Conveyancing fees and expenses (probably including LR, LA and other search fees) to the conveyancer
 - Lender's fees to the lending institution

Simultaneous electronic routing of all payments due at the end of the conveyancing process from the right sources to the right recipients would be a major prize to be won within an e-conveyancing system.

Potentially at least, a system of this kind would seem to offer powerful advantages in terms of economy, efficiency, transparency and risk reduction:

- i. *Reduced transaction costs.* There should be scope for major reductions in the costs associated with all the transactions listed and others as well such as payments for searches.
- ii. *Reduced dependence on conveyancers' client accounts.* Under present systems, clearing of the major payments when it is safe to do so depends on operation by the conveyancer community collectively of what is in effect a kind of dispersed clearing house cum escrow arrangement through a large network of individual client accounts. This arrangement heaps heavy burdens, responsibilities and risks on conveyancers.
- iii. *Reduced scope for fraud.* The much increased transparency made possible by an electronic system should reduce the scope for fraud.
- iv. *Reduced indemnity and fidelity insurance.* The reduced need for client accounts and the reduced scope for fraud should both be reflected in large reductions in the heavy bills for personal indemnity and staff fidelity insurance that conveyancers have had to pay since the demise of the Law Society's Indemnity Fund.
- v. *Prevention of errors in stamp duty and fees.* With intelligent electronic payments programmes, it should be possible largely to eliminate the high

incidence of errors that currently bedevils payments of stamp duty and Registry fees.

- vi. *Automatic prevention or detection of other errors.* An electronic clearing system based on prior notification in draft offers scope for automatic prevention or detection of other errors and inconsistencies in the network of payments associated with a transaction and correcting them in advance.

It would be neither possible nor sensible for the Registry on its own to try to establish an electronic settlements system of the kind suggested. Such a system would involve lenders, conveyancers and the Inland Revenue (as collectors of Stamp Duty) quite as much as the Land Registry. In terms of payment magnitudes, the lenders would be the most important players.

In my opinion, therefore, the best way ahead will be for the Registry to begin by convening discussions between all the stakeholders involved (Inland Revenue, Land Registry, Lenders, Conveyancers and possibly others) with a view to identifying options for consideration and immediate requirements for consultancy support.

If these discussions confirm that there is support for pursuing these or similar ideas further, or indeed other models altogether, the best next step would probably be to set up a corporate vehicle or joint venture bringing together all the main interests concerned (Inland Revenue, Land Registry, Lenders and Conveyancers) to pursue the project. Chapter 14 returns to this issue.

The corporate vehicle, having further refined the broad lines of a preferred system, would probably wish in turn to invite private sector companies or consortia with the relevant expertise in electronics, settlement systems and trust arrangements to make proposals and submit tenders for running such a system.

Inside the Registry, the new Task Force on e-conveyancing, or a specialist multi-disciplinary team within it, should be well placed to support senior management in this area and to pursue discussions at working level with the other stakeholders listed above and with others concerned such as the Financial Services Authority.

With regard to the fully developed system, some issues to be addressed at an early stage in all these discussions will be:

- whether the model of contracting a specialist consortium to run an electronic settlements clearing house with associated trust and audit arrangements is in principle on the right lines
- whether there are alternative models which should also be examined
- whether settlement systems along the lines of the Stock Exchange's CREST settlements system and / or the banks' CHAPS settlement system could be developed for this purpose
- whether the banking system can provide at reasonable cost a system of simultaneous, same-day electronic settlement on the lines envisaged

- whether such a system could also be used for settling the smaller search fees at earlier stages in the conveyancing process.

An electronic settlements system would clearly work to best advantage if *all* payments had to be made electronically. For the shorter-term, when such a system could not yet be obligatory, it would be necessary to examine whether a system in which some (perhaps most), but not all, payments would be made electronically, would be advantageous in itself and help to prepare the way for full electronic settlement.

It would also be for consideration whether (as seems likely) the associated clearing house and trust arrangements could helpfully be established in advance of full electronic settlements.

8.9 e-conveyancing: moving from optional to obligatory systems

The facilities discussed so far would mostly be *options* for practitioners to use if they choose in Phase One of the e-conveyancing programme.

In most areas of administration, however, parallel running of modern and ancient systems turns out to be expensive, burdensome and confusing as well as preventing realisation of the main benefits from the new systems. Conveyancing systems are no exception.

There would seem a strong case, therefore, for making use of the three e-facilities *obligatory* after a short period of parallel running. As suggested above, this might be Phase Two of the programme.

The e-conveyancing system would then have the following main elements:

- i. Practitioners would be *obliged* to lodge applications for changes in the Register in electronic form, with the help of e-signatures and authentication to prevent fraud
- ii. The Registry would normally *respond* with electronic confirmation, rejection or requisition of such applications and new Register entries, either in draft or in final form
- iii. The Registry would hold Land and Charges Certificates and certain other documents electronically
- iv. All parties might also be obliged to participate, directly or indirectly, in the *electronic settlements* facility.

Making use of the new e-facilities compulsory would open the way to economies not available under the optional system (where alternative options would run side by side). The authorities in British Columbia and Ontario are planning to make use of the new e-systems compulsory.

It would also open the way to potentially beneficial changes in the wider system for property transactions.

8.10 Accompanying changes in national systems: present systems

The discussion so far has been concerned with how best to computerise the existing national systems for registering transactions in land and property, and for financial settlements, so as to make them more effective, efficient, economical, swift and user-friendly.

The third objective identified earlier was to use the opportunities provided by the new technologies, if possible, to improve the wider national systems for property transactions, in particular the buying and selling of houses and registration.

In pursuance of this third objective, the starting point is to consider what the strengths and weaknesses of present systems, especially for buying and selling houses, are. The issue is then what can be done to remove the weaknesses without losing the strengths.

The existing systems appear to have the following strengths:

- *Same-day completions.* In contrast with most countries, people in England and Wales mostly manage to complete the sale of one dwelling and the purchase of another on the same day. This means that they are generally able to move straight from one home to another without having either to live for a time in rented accommodation or to pay for expensive bridging finance to support temporary ownership of two dwellings. Their goods and chattels, similarly, can usually be moved straight from one home to the next in a single operation. This system has the considerable merit of removing the need for costly and stressful interim arrangements. The short supply in some areas of private rented accommodation and the reluctance of lenders, chastened by past defaults, to provide bridging finance on acceptable terms have both helped to keep the system in being.
- *Pre-contract searches.* The practitioners who assist homebuyers in England and Wales mostly make reasonably comprehensive pre-contract searches on their behalf with the Land Registry and with the local authorities concerned so as to ensure that there are no unforeseen problems in matters such as title, easements, charges and local planning applications. In many other countries this does not happen.
- *Economy.* Compared with many countries, housing transaction costs *excluding* taxes are relatively low in England and Wales, typically around 3 1/2 per cent of the purchase price (see Box 8.3). In many countries the costs are around double that level (see DETR's Housing Research Summary No 11, 1998). There are however two cautions that should be made. First, house prices in much of England and Wales are very high by international standards. Second, the recent increases in stamp duty have made transaction costs *including* taxes far more expensive than they used to be, especially for higher value houses.

Alongside these strengths the existing systems have some significant weaknesses as well.

i. *Timescales*

The average period of time between the seller's acceptance of the buyer's offer and completion is substantially longer in England and Wales, at around 12 weeks, than in most other countries, where the period seems typically to be between 6 and 8 weeks.

Especially unusual is the length of time between acceptance of offer and exchange of contracts (or equivalent). According to the research already mentioned, this averages 8 weeks in England and Wales compared with around 2 weeks in most other countries.

This may not be a major defect. But the longer the period of waiting and uncertainty lasts, the more stressful the experience of buyers and sellers is likely to be.

In addition, the delay of two months rather than a fortnight between acceptance of offer and contractual commitment must greatly increase the dangers of pre-contract gazumping (where the seller accepts a higher offer from another buyer) and gazundering (where the buyer switches to an alternative dwelling that seems to offer better value for money), especially when market prices are moving rapidly.

The long average delay between acceptance of offer and contractual commitment may partly reflect the extra challenges of arranging same-day completions discussed earlier. But it could probably be reduced if

- (a) contracts in England and Wales included rather more conditions than is now customary, for example as to survey results and lender offers,
- (b) lenders made their offers more promptly,
- (c) local authorities responded more promptly to pre-contract searches, and
- (d) conveyancers attended more promptly to cases.

ii. *Transaction "chains"*

The tradition in England and Wales of same-day completions results in a peculiarly English phenomenon of "chains" of housing transactions. The transactions within a "chain" are all inter-linked and inter-dependent. They have to be completed on same day *unless* some of those involved are prepared to have no home or two homes for an interim period. Delay in one transaction may cause delays in the whole "chain".

"Chains" may sometimes link together in an interdependent relationship as many as 20 or more separate transactions. They are typically bounded by first-time buyers with no existing home waiting to be occupied by someone else and by sellers who are not buying another property and hence have no fixed imperatives as to date of completion (for example because they are already living in another property and maybe never lived in the property they are selling).

As a practical matter, “chains” are an unavoidable feature of a system which relies heavily on same-day completions. And conveyancers are highly skilled in making the system work, typically through frantic hours of multilateral telephone calls. But the system is not transparent. Often no one knows the full extent of the chain or the nature of the problem that is delaying progress. With the help of modern technology, there should be scope for making chains transparent and simplifying the tasks of those who have to wrestle with them.

iii. *Buying without structural surveys*

DETR research indicates that only some 30 per cent of homebuyers commission a proper structural survey of the property they are buying before contracting to buy it.

As discussed in the next section, the DETR are bringing forward legislation to solve this problem by obliging the seller to obtain home condition reports from accredited impartial inspectors before they market the property.

iv. *Local authority and other search problems*

Although the Land Registry has an excellent Register, local authorities mostly do not have ready-made registers of the same kind that can be immediately made available for examination. For the most part, conveyancers making local authority searches have to ask specific questions which the local authority concerned will then answer. Important relevant information may be missed if the conveyancer does not ask the right questions or approach all the relevant local authorities.

Few local authorities have computerised Register-style information. Some are slow in responding to searches. Some charge search fees that seem remarkably high given the statutory requirement to provide this service at cost. Fees are close to £200 in some parts of the country.

Certain other public bodies, too, seem not well-organised to respond promptly and effectively to searches.

As discussed earlier, the NLIS and NLPG projects are trying to bring about dramatic improvements in the data sets and services provided by the less advanced local authorities and other bodies, including computerisation of records. The Local Government Association, too, has been encouraging the development by local authorities of Land Registry-style Registers.

v. *Delays between completion and registration*

A further weakness in the present systems is that registration of new owners is never completed until after completion, often some time after.

In first registrations of previously unregistered titles, there may be genuine and difficult problems to be resolved concerning the title or title plan which would better have been addressed before completion.

In simple transfers of registered titles, the Registry's practice of "freezing" the Register by granting the purchaser 30 days' "priority" after receipt of an official search gives the purchaser substantial protection against bids by others to change the Register during the period of the "registration gap" (see Appendix C to Chapter 7). But there are still risks that the vendor may go bankrupt or overriding interests may be identified. And in more than a third of cases, conveyancers do not succeed in lodging the applications within the priority period afforded by the official search.

In the majority of cases, the problems are simply delays. But delays themselves are an irritation. Both conveyancers and the Land Registry are concerned to remove cases promptly from the active list so as to keep costs down.

For properties already registered, the delay appears to be around 2 weeks on average at present. For properties not previously registered, the delay averages about 5 weeks but there is a significant minority of cases where the registration process drags on for much longer.

The fact that registration follows completion reflects the absence of any requirement that registration must be completed before title passes.

The delays may reflect a variety of causes. In many cases, the problems arise from delays, errors or omissions by lenders or conveyancers. A further problem is that sellers' signatures are sometimes needed in order to complete the Registration process. Sellers, however, have little interest in prompt despatch of business relating to a property that is no longer theirs.

vi. *Awkwardnesses and diseconomies in financial settlements*

The present systems for making the matrix of payments due on completion of land and property transactions benefit little from the latest technologies.

As discussed above in the section on e-settlements, the system depends on conveyancers' willingness to use their client accounts to operate a dispersed clearing house cum escrow arrangement. The banks' traditional requirement for two or three days to "clear" cheques increases the risks. A modern electronic settlements system with an associated trust facility should in principle be capable of reducing risks, delays, obscurities, temptations and costs.

In addition, conveyancers frequently miscalculate stamp duty or Land Registry fees. These errors add to administrative burdens and expense. With a properly programmed and intelligent electronic settlements system, it should be possible to eliminate such errors.

As discussed above, the NLIS and NLPG projects should help to solve the problems in pre-contract searches (item iv), and the introduction of electronic settlements, if practicable, should in due course solve the problems of financial settlement (item vi).

The DETR's Seller's Pack initiative should solve the problem of buying without surveys (item iii). It might help in some cases to reduce delays between acceptance of offer and contract (item i) but could also increase delays in other cases. The next section discusses this further.

Finally, some re-engineering of the national systems for property transactions and new ways of working together may help to mitigate the problems associated with "chains" of transactions (item ii) and registration after completion (item v) as well as the problems of delays and searches (items i and iv). The final section of the Chapter discusses what form such re-engineering might take.

8.11 Accompanying changes in national systems: DETR's "seller's pack"

The DETR's Homes Bill will require sellers of properties, or their agents, to assemble a "Seller's Pack" mainly comprising copies of legal documents and

- (a) a condition report based on a survey inspection by an independently certified surveyor or other inspector under a new certification scheme, and
- (b) the standard searches which the buyer's conveyancer would now undertake.

The Homes Bill provides powers, complete with criminal sanctions, to oblige sellers to assemble such "Packs" before marketing their properties and to make them available to would-be buyers. The DETR hopes that the new requirements will take effect from January 2003.

Without reversing the principle of *caveat emptor*, regulations proposed by DETR under the Homes Bill will transfer to sellers responsibility for obtaining a condition report and replies to local searches. The inclusion of this information in the seller's pack will make available to would-be buyers information about material matters which would not be obvious on casual inspection of the property and which would-be buyers might reasonably be assumed to want to know.

The DETR's proposals will deal with some, but by no means all, of the weaknesses in present national systems listed in the previous section.

The proposals will spectacularly solve the problem of *surveys before purchase* (item (iii) in our earlier list): that is, the problem that most buyers in England and Wales buy properties without having then surveyed. Only perhaps 30 per cent of buyers in practice commission housing condition or structural surveys at present before contracting to buy.

Under the DETR's proposals, marketing of domestic properties (with some specified exceptions such as first sales of newly-built homes offered for sale with a suitable warranty) would be preceded by home condition inspections and reports. The seller would be obliged by law to commission such a report from an authorised inspector

and make it available to an intending buyer. Authorised inspectors would be members of a certification scheme approved by the Secretary of State. The Consumers Association, Council of Mortgage Lenders, Law Society and National Association of Estate Agents are among the stakeholders who, together with the Royal Institution of Chartered Surveyors, are setting up an independent certification scheme for this purpose. Inspectors would have professional indemnity insurance and would be liable to the buyer and lender as well as the seller. It is hoped that buyers and lenders would therefore be willing to trust the home condition report.

The effect of the Seller's Pack proposals on the *length of time* the buying and selling process takes, on the other hand (item (i) in the earlier list), is less clear.

The "pre-marketing" interval between sellers' decisions to sell and marketing is likely to increase when sellers are obliged to obtain home condition reports, searches and other documents before marketing. In the absence of specific measures, the resulting delays could be serious.

Searches should not be a problem. With the possible exception in the shorter-term of some local authority searches, they will soon mostly be electronic.

Obligatory home condition reports, on the other hand, will result in a threefold increase in the number of home condition surveys or inspections, from around 30 per cent of transactions now to approaching 90 per cent. There could in principle be long and growing queues for surveyor services unless many more surveyors or inspectors can be recruited to meet the extra demand.

In practice, the Government has indicated that it will not proceed with the mandatory home condition reports until it is satisfied that sufficient trained and qualified inspectors are available to ensure smooth implementation of the extra work.

A certification scheme for inspectors is currently being developed with Government assistance for approval by the Secretary of State. Only inspectors who qualify under the approved scheme will carry out home condition inspections. Based on present transaction levels, it is estimated that the equivalent of some 9,000 full time inspectors will be needed. The industry already employs some 9,000 General Practice Surveyors on residential work. Both these and 3,000 existing RICS Building Surveyors are expected to be interested in the new work, as are members of other related professions. The DETR's expectation is that the required number of qualified inspectors will be available in time for home condition reports to be brought into force from 2003.

The obligatory home condition reports should reduce the "pre-contract" interval between acceptance of offer and exchange of contracts in some cases. Buyers will have less to do unless they wish to commission their own surveys and searches.

But any delays that sellers experience before putting their properties on the market may indirectly delay buyers at the pre-contract stage as well. As discussed above, most buyers of one property are also the sellers of another within a "chain" of transactions. Some buyers within a chain will probably feel obliged to discharge their new pre-marketing obligations as sellers, and indeed to sell their existing properties,

before confirming their willingness to buy. So any sellers' delays are likely to be reflected in buyers' delays. And since chains move at the pace of the slowest, any such delays would be likely to delay buyers and sellers throughout the "chain".

The risk of delays being transmitted in this way through the "chain" from the pre-marketing to the pre-contract stage underlines the importance of the DETR's determination not to proceed with the mandatory home condition reports until sufficient inspectors are available to handle expeditiously the large volume of extra work.

In practice, the DETR expect that seller's packs will be assembled quickly. In the pilot scheme at Bristol, packs were assembled in an average of 11 working days and this period is expected to reduce significantly by 2003. To avoid inordinate delays in marketing homes, the Homes Bill provides powers for marketing to commence with an incomplete pack where items are not available or cannot be provided within a reasonable period. DETR hope that any time lost at the start of the process should be more than made up during the period between acceptance of offer and exchange of contracts.

Costs may also be an issue, even though most of the items in the seller's pack have to be produced and paid for at some stage under the present process.

The main additional cost is the home condition report for the 70 per cent of cases where a survey is not currently commissioned. Strong demand for condition reports could put upward pressure on prices which the seller will now have to pay. As discussed above, however, the Government is determined not to introduce condition reports before sufficient numbers of inspectors are available to meet demand. In addition, the DETR foresee a reduced requirement for separate lenders' valuation inspections. The condition report, on which lenders will be able to rely, will assist the move away from valuation inspections and towards 'desk top' and other methods of valuation assessment.

Repeated searches could likewise increase costs in some cases. Buyers may wish to check the searches obtained for the Pack to ensure that they are up to date. Repeat searches might then be needed. Land Registry searches cost very little so this would barely be a problem. Some local authority search fees, on the other hand, are very high (close to £200 in some authorities), despite the statutory obligation to do no more than cover costs.

The development of instantly available, up to date, online Land Registry searches through LR Direct, and of one-stop comprehensive online searches and updates through NLIS, will seemingly open the way to solving this problem.

One solution would be to replace in due time the seller's obligation on searches, as presently conceived, with an electronic variant. This might take the form of obliging the seller only to identify the property title number where a comprehensive e-search can be made. Another possibility might be to retain the proposed obligation on sellers to conduct and provide searches but to see if a cheap and simple updating check could be developed through NLIS to enable buyers to verify whether any changes had occurred in the Registers searched.

DETR research suggests that failed transactions currently cost buyers and sellers around £350 million each year. It is hoped that, by bringing important information to the start of the process, the Seller's Pack could help to reduce the delays, renegotiation and failure which now occur when survey and other information becomes available some time after terms have been agreed.

The broad conclusion which seems to emerge is that the Seller's Pack initiative, while helpfully reversing the widespread practice of buying houses without a conditions survey, will need to be closely co-ordinated and integrated with the e-conveyancing initiative if the much needed improvements in the house buying and selling processes are to be successfully delivered. It will be especially important to ensure that the two initiatives, taken together, will reduce rather than increase delays.

8.12 Accompanying changes in national systems: re-engineering with the help of e-technologies

In my opinion there *should* be scope for solving or mitigating the other problems identified in the present national system for buying and selling houses, partly through re-engineering of some of the processes alongside the introduction of e-technologies and partly through greater co-operation between public and private sector providers (with suitable structures to support this).

The Consultative Paper published in 1998 by the Law Commission and the Land Registry, "*Land Registration for the Twenty-First Century*", Cm 4027, set out some preliminary ideas for such re-engineering.

Since then, there has been some further development of these ideas, and the Government has launched other initiatives, notably the National Land Information Service and the Seller's Pack.

In the present Review, too, we have devoted some time to considering the scope for improving the national processes, in consultation with the Land Registry's experts, LCD, DETR and others.

Box 8.4 sets out how the re-engineered systems might work, compared with the present systems. It tries to encapsulate all the recent initiatives and ideas. Box 8.5 offers a visual interpretation including an indication of timescale.

The re-engineered process would incorporate the following new elements:

- (a) At the *marketing* stage, sellers or Estate Agents would have the option to give notice on an electronic Bulletin Board, probably best operated by NLIS, that a property is for sale. The private sector bulletin boards already available could not readily achieve the comprehensive coverage that NLIS could.
- (b) At the *handshake* stage (seller's acceptance of buyer's offer subject to contract), the Estate Agent would give the buyer a copy of the Seller's Pack, including a home condition report or survey by an accredited inspector.

- (c) The Estate Agent would continue as now to notify the buyer's and seller's conveyancers that the handshake on the property had taken place but would simultaneously e-copy the notification to the Land Registry.
- (d) *Between handshake and contract*, the buyer's solicitor would make a single, comprehensive search online through NLIS, and / or LR Direct, rather than multiple searches as now.
- (e) Buyers would commission surveys only if they were not satisfied with the official survey in the Seller's Pack.
- (f) Buyers would mostly have previous "in principle" offers from their mortgage lenders and would communicate online in more cases with their lenders. Lenders might increasingly be able to conduct their valuations online.
- (g) Buyers' conveyancers would clear the new Register entries in draft at this stage with the Land Registry, and identify any problems. At present this happens after completion.
- (h) Buyers' conveyancers would also record online with the Land Registry the stage reached on each transaction. This would enable the Land Registry to see all the transactions linked together in a "chain" and to make this information available online to conveyancers. Chains would thus become transparent. The conveyancer's task in synchronising completion dates would be simplified.
- (i) At the *contract* stage, there would be an electronic equivalent of the present exchange of contracts. Contracts might be deemed to be exchanged when buyer's and seller's conveyancers and lenders had all notified the Land Registry that agreement had been reached on price (which would be stated) and contract. For this and other purposes, conveyancers would need to have e-signatures and authentication from a Regulatory body. Buyers and sellers might need to empower conveyancers to sign by power of attorney.
- (j) The Land Registry would make a new provisional Register entry in red and freeze the Register automatically until the date of completion (or perhaps for 30 days if no completion date has been agreed). Access to this would be limited to authorised parties.
- (k) Conveyancers and lenders would e-copy the notification of agreed price they send the LR (see (i) above) to the e-settlements authority. The authority could then hold the draft electronic settlements online, access being limited to authorised parties, in preparation for simultaneous settlement on completion.
- (l) *Between contract and completion*, there would be no need for the present further round of searches and priority periods.
- (m) *Completion* would take place by the change in the Register (ownership and transfers by Registration rather than registration of ownership and transfers). The Land Registry would change the Register, in accordance with the red lettering agreed earlier, immediately after notification online by the seller's and

buyer's conveyancers. The new Register entry would confirm completion of the transfer. There would be no need for Deeds of Transfer (which many countries do not have anyway). To avoid delays, transactions involving first registrations could be authorised on the basis of provisional registrations.

- (n) All financial obligations, including Inland Revenue stamp duty and Land Registry fees as well as payments between buyers, sellers, lenders and conveyancers, would be settled through an intelligent e-settlements system (see section 8.8 above). With the help of the e-technologies, the amounts of stamp duty and Land Registry fees would be correct in virtually all cases. This would contrast with the present high incidence of errors.
- (o) *Post-completion*. In general no further action would be needed. It might however be necessary to make exceptions of first registrations or transfers of part, where the Register might need to be changed on a provisional basis pending completion of the necessary investigations.

These changes should go a long way to remove or mitigate the weaknesses in the present systems listed in section 8.10.

1. The *delays* in the present system would be reduced by features (d) and (f) above, and in some cases by (b), (e) and (k). With closer co-operation between the Land Registry and the other providers, there may be scope for reducing the average interval between handshake and contract from the present eight weeks to a level more in line with other countries, perhaps three weeks. See further section 8.13 below.
2. The headaches caused by “*chains*” of interdependent transactions should be reduced by features (h) and (c). They would not of course be removed altogether.
3. The high incidence of *purchases without condition surveys* would be solved by feature (b).
4. Delays and other problems in *local authority and other searches* should be largely solved by feature (d), the work being undertaken under NLIS and NLPG, together with closer co-operation between all the co-providers.
5. The problems associated with the present practice of *changing the Register after completion* would be solved by feature (l) and (n).
6. The problems of administrative burdens, risks and errors in the *settlement of payments* should be largely solved by an e-settlements system if this proves practicable (feature (m)).
7. With the exception of the threefold increase in the number of surveys, and launch costs, the *costs* of the new system should be below present levels. When the new systems are up and running, the amount of work involved for everyone except surveyors should be significantly reduced, as should the incidence (presently very high) of errors.

8.13 Closer co-operation and a Joint Charter

It will be important that all concerned in the new systems, both public and private sector providers, should work together in a spirit of co-operation so as to make the new systems as good as possible for the ultimate customers (buyers, sellers and renters).

This is desirable not just in itself but also because the e-related re-engineering and the seller's pack initiative, between them, will not offer a total solution to weaknesses 1 (delays) and 4 (deficiencies in local authority and other searches) identified above.

One way to focus such co-operation would be for all the service providers, in both public and private sectors, to work together to produce a *Joint Property Market Charter*, in the form of a *Joint Statement of Service Standards*. This would revive an idea considered by DETR some years ago.

The Government Departments and service providers concerned could meet together regularly in a *Property Market Charter Forum* whose initial task would be to develop the proposed Joint Charter.

The Land Registry, as the only Government body actively participating in individual buying and selling transactions, would be well placed to join other Government Departments and other service providers in the local authority and private sectors in promoting such a Charter and Forum.

Each of the bodies and professions concerned, including the Land Registry, the Inland Revenue, Ordnance Survey, Local Authority bodies, estate agents, solicitors, other conveyancers, mortgage lenders and banks, would commit themselves

- to act together to make property market transactions work as well as possible, with minimum aggravation for buyers, sellers, owners, tenants and other customers
- to deliver defined standards of customer service in their own areas of business, both in dealings with each other and with customers
- to set and deliver a timetable for making services available electronically, with suitable safeguards
- to allow their activities, including their success in achieving the standards set, to be assessed and monitored by a respected outside body such as the Audit Commission.

Box 8.6 sketches, by way of illustration, what a Joint Statement of Service Standards might look like.

A key element which the Joint Statement should preferably include, in my opinion, would be a specific target:

to reduce the average period between acceptance of offer and exchange of contracts on domestic properties from 8 weeks to around 3 weeks.

Three weeks seems to be the maximum period that other countries require, even without e-conveyancing.

Supporting the Joint Statement, and annexed to it, would be specific statements of service standards by each of the main bodies concerned. The Land Registry, the Valuation Office and the Inland Revenue, for example, would each include statements on the lines of their existing Service First statements.

Especially important would be commitments by *local authority bodies*

- to prepare registers of relevant information on Land Registry lines,
- to make them accessible online, not least through NLIS, and
- pending that, to make them available within one week, and
- to limit their charges to £50 or less.

Also important would be commitments by *mortgage lenders*

- to provide in principle mortgage offers on request to intending buyers, and
- to respond promptly, normally within 4 working days, to specific requests for mortgage finance for particular properties.

The proposed service standards, like other service standards, would preferably be monitored by an independent outside source such as the Audit Commission. The techniques the Audit Commission has developed would be well-suited to this new field.

8.14 Structures

Successful delivery of the programmes for e-conveyancing and the proposed Property Market Charter and Joint Statement of Service Standards will both depend on close co-operation between all who provide and use the services.

Such co-operation, in turn, will depend importantly on having the right structures for bringing all concerned together. They need to see themselves and each other as partners in a single enterprise.

The Forum of Government Departments and public and private sector service providers which is formed to oversee development of the proposed Property Market Charter might usefully remain in existence subsequently.

It might hold a couple of meetings each year to review progress in delivering the Charter and the scope for setting ever higher standards of service. It might similarly

discuss other ways of making the national systems for property transactions work as well as possible.

Within the Government, a Steering Committee for e-conveyancing and related matters has already been set up under LCD Chairmanship, following discussions at an early stage of the present Review, as has also a Task Force led by the Land Registry. The Steering Committee would preferably, in my opinion, have a wider remit to work together with others to improve the national systems for property transactions as a whole.

Both the Steering Committee and the Task Force will need to meet regularly in a wider format as well with other service providers, in the local authority and private sectors, so that all the service providers may have joint ownership of the programme.

The corporate vehicle that lets and oversees the NLIS and NLPG projects likewise needs to be re-cast so as to bring together the interests of all the main service providers. A separate new corporate vehicle would be needed to let the proposed contract for electronic settlements at completion.

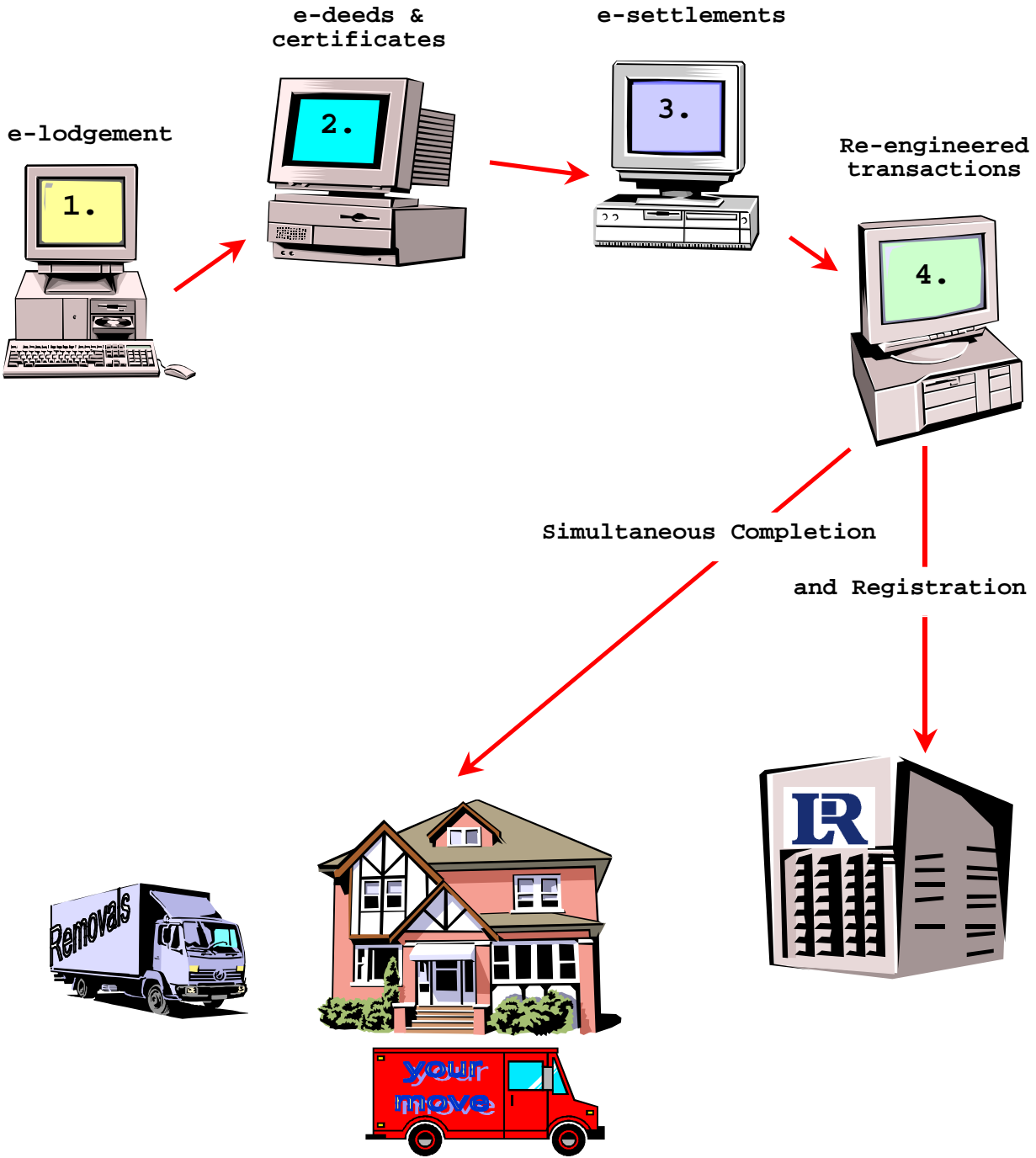
We return to these governance issues in Chapter 14.

8.15 Migration plan

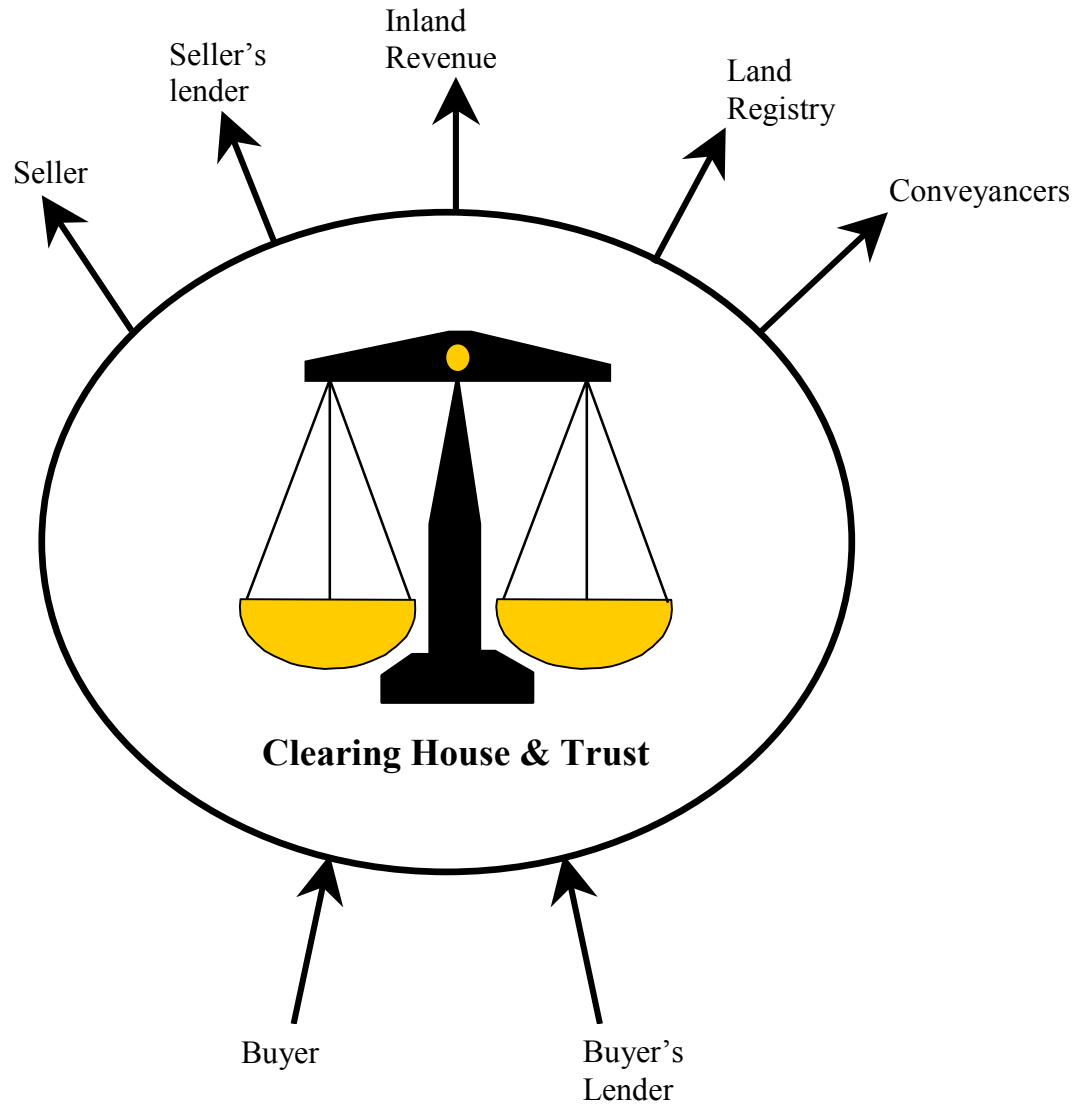
As in all major reforms, a considered plan for managing the migration from present systems to the new systems will be a vital element. The plan needs to allow for testing of models, preparation of business cases, consultation, contracting any private sector partners and education and training of those who will use the new system.

As set out in the wider timetable at Box 4.5, the main elements in the migration plan might be as in Box 8.7.

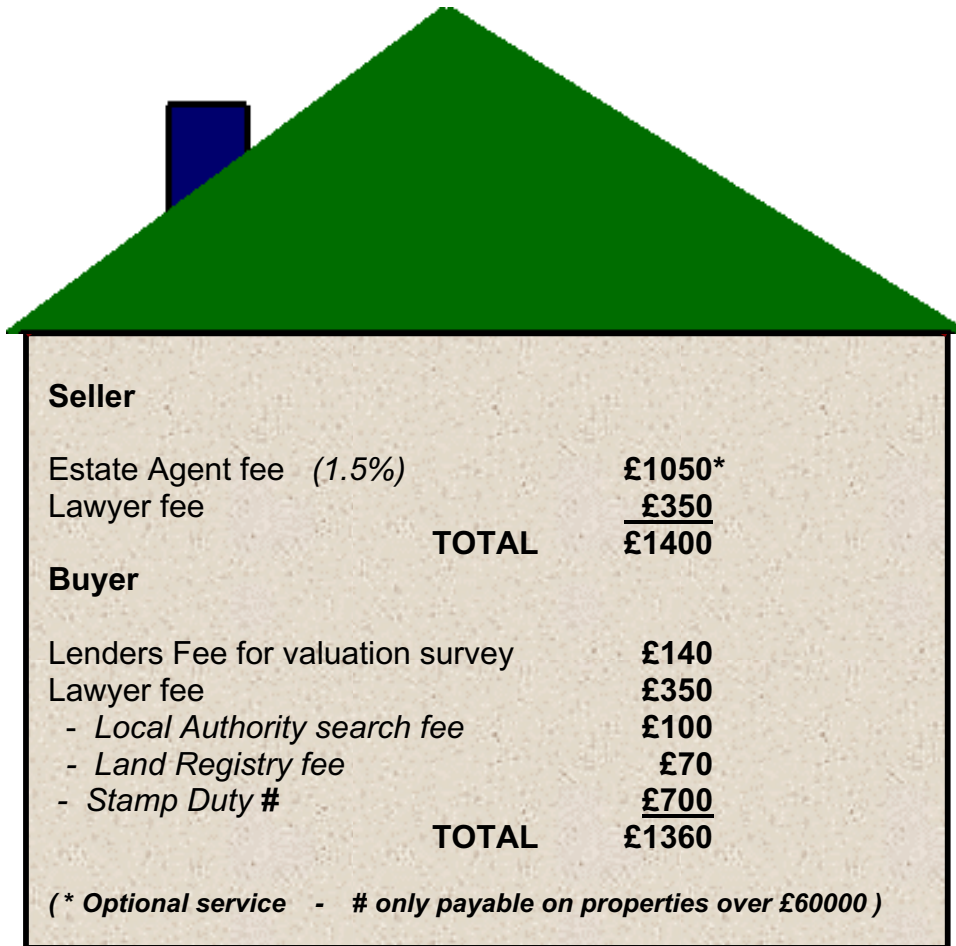
BOX 8.1
FOUR COMPONENTS OF e-CONVEYANCING



BOX 8.2
ELECTRONIC SETTLEMENTS AND THE CLEARING HOUSE



BOX 8.3
ESTIMATED COSTS FOR BUYING AND SELLING A HOUSE IN 2000 FOR AN
AVERAGE HOUSE PRICE OF £70,000



Seller		
Estate Agent fee (1.5%)		£1050*
Lawyer fee		<u>£350</u>
	TOTAL	£1400
Buyer		
Lenders Fee for valuation survey		£140
Lawyer fee		£350
- Local Authority search fee		£100
- Land Registry fee		£70
- Stamp Duty #		<u>£700</u>
	TOTAL	£1360
(* Optional service - # only payable on properties over £60000)		

BOX 8.4
HOUSE PURCHASE SYSTEMS IN ENGLAND & WALES:

Comparison of present model with e-conveyancing model

PRESENT MODEL

E-CONVEYANCING MODEL

Stage 1: Marketing

- | | |
|--|--|
| (a) Estate Agent advertises property for sale through traditional channels | (a) As now. But Estate Agent advertises on NLIS Bulletin Board as well that property is for sale |
| | (b) Estate Agent gives would-be buyers a copy of the official Seller's Pack survey (if any) |

Stage 2: Handshake (provisional agreement on terms of sale)

- | | |
|---|--|
| (a) Buyer makes offer subject to contract. Seller accepts | (a) As now |
| (b) Estate Agent notifies buyer's and seller's conveyancers | (b) Estate Agent notifies conveyancers as now but online and with e-copy to LR |

Stage 3: Between Handshake and Contract

- | | |
|---|--|
| (a) Buyer's conveyancer makes manifold searches | (a) Buyer's solicitor makes single comprehensive search through NLIS and / or LR Direct |
| (b) Buyer may commission survey | (b) Buyer commissions survey only if not satisfied with official survey |
| (c) Buyer arranges mortgage finance | (c) Buyer arranges mortgage finance, possibly online and based on previous "in principle" offer |
| (d) Buyer's and sellers' conveyancers, in extensive multilateral telephoning with others in Chain of interlinked transactions, agree on completion date | (d) With help from LR on the identities of others in the Chain and the state of their transactions, buyer's and seller's conveyancers agree on completion date |
| | (e) Buyer's conveyancer clears new Registry entry in draft with LR |

Stage 4: Contract

- | | |
|---------------------------|--|
| (a) Exchange of contracts | (a) e-equivalent of exchange of contracts, based on e-signatures and authentication of conveyancers, POAs from clients, and notification of LR and e-settlement authority by buyer's and seller's conveyancers and lenders |
| | (b) LR freezes Register until date of completion and makes provisional new Register entry in red and (or for 30 days if not fixed) |
| | (c) e-settlements authority holds provisional disbursements list on screen in red |

Stage 5: Between Contract and Completion

- | | |
|---|---|
| (a) Buyer's conveyancer launches pre-completion searches with LR so as to obtain priority [for 30 days] over anyone else seeking to change the Register | (a) <i>[LR's automatic freezing of Register, at stage 4 (c), would remove the need for a further round of searches and priority period]</i> |
|---|---|

Stage 6: Completion

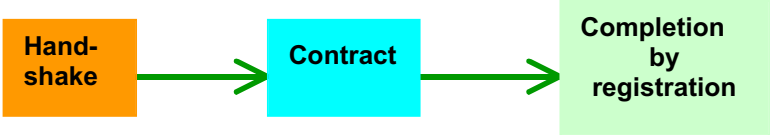
- | | |
|---|--|
| (a) Seller signs Deed of conveyance to give effect to change of ownership | (a) After online notification by seller's and buyer's conveyancers, LR gives effect to change of ownership through permanent change in Register entry <i>[No need for Deeds of Transfer or Conveyance]</i> |
| (b) Multiple cheques from and to various sources with help of conveyancers' client accounts | (b) All financial obligations, inc stamp duty, settled through simultaneous electronic settlement <i>[Online applications programmes would ensure correct amounts of Stamp Duty & LR fees]</i> |

Stage 7: Post-Completion

- | | |
|---|---|
| (a) Buyer's conveyancer applies to LR for registration of buyer on Register | (a) <i>[No further action needed except possibly for first registrations]</i> |
| (b) Stamp Duty paid. Errors sorted out. | |
| (c) LR and conveyancers work on any title or other problems | |
| (d) LR changes Register | |

BOX 8.5
RE-ENGINEERED HOUSE BUYING AND SELLING PROCESSES

New Processes



Present Processes



BOX 8.6
PROPERTY MARKET CHARTER:

JOINT STATEMENT OF SERVICE STANDARDS BY:

HM Land Registry
Inland Revenue
Ordnance Survey
Local Government Association
Local Government Information House
National Association of Estate Agents
Royal Institution of Chartered Surveyors
Law Society
Council for Licensed Conveyancers
Council of Mortgage Lenders
British Bankers Association

As co-providers of property services, we are all committed to:

- work together to make the national system for buying, selling, owning and renting property as well-oiled and trouble-free as possible, with maximum clarity, certainty and security and minimum aggravation, surprises and delay
- observe the highest professional standards and avoid conflicts of interest
- deliver high service standards in our own areas of business, both in dealings with customers and with each other, as set out in the accompanying statements of specific standards
- work together to reduce the average period between acceptance of offer and exchange of contracts on domestic properties from the present 8 weeks to around 3 weeks
- deal swiftly and courteously with correspondence and complaints
- set and deliver timetables for making services available electronically
- work together to make a success of e-conveyancing
- invite the Audit Commission to assess and monitor all our activities, including our success in achieving the standards set

BOX 8.7
A POSSIBLE MIGRATION PLAN

2001	
January	Launch e-conveyancing Steering Committee & Task Force
February	NLIS service begins alongside LR Direct
April	Publish Quinquennial Review Identify provisional LR Bill Team Test computer demonstrator of e-conveyancing
May / June	Consultation assumed to begin on Draft Land Registration Bill Publish Consultation Paper on e-conveyancing, with demonstrator Possible reform of LGIH corporate vehicle
July / August	Ministers invite co-providers to work on Property Market Charter Responses to consultation on LR Bill
November / December	LR Bill assumed to be introduced Deadline for responses to consultation paper on e-conveyancing Set up LR Education Service
2002	
February	Publish firm proposals for e-conveyancing Issue invitations to tender for private partner on e-lodgement
May	Joint Charter takes effect Facilities available for holding land & charge certificates in e-form
July	Royal Assent to LR Bill assumed Publish draft Rules and Practice Notes
September / December	Appoint private sector partner for e-lodgement Establish corporate vehicle to let e-settlements contract Intensive training of staff and co-providers
2003	
January	Ministers approve new Rules under LR Act Electronic delivery of Register applications available Launch LR Advisory Unit for lay-conveyancers
June / July	LR Act and specified Regulations take effect Ownership & transfers by registration allowed without Deeds Let e-settlements contract All Register entries available in electronic or scanned form
2004	
January	Remaining Rules take effect Electronic delivery of applications possibly compulsory e-settlements facility available
2005	
January	e-settlements possibly compulsory
September	Re-engineered buying and selling processes take effect

9 STRATEGY: LAND CHARGES DEPARTMENT, BANKRUPTCY INDEX AND AGRICULTURAL CREDITS*

9.1 The Land Charges Department's work

In accordance with the Land Charges Act 1972, the Land Charges Department at Plymouth maintains a Register of Land Charges. The Act lists the charges that may be registered as including:

- land charges
- pending actions
- writs and orders affecting land
- deeds of arrangement affecting land, and
- annuities.

The list of land charges that may be registered does not include first mortgages where deeds are deposited with the lender. It does include "puisne" mortgages not protected by a deposit of documents (now commonly known as second mortgages). Historically, the Register was designed to give protection to lenders and other chargees who did not have the protection of deposited deeds. It was not thought necessary to provide for registration of charges where the lender had the protection of deposited deeds.

All who have covenants or other charges in the categories listed against *unregistered* land are able to protect their interests by registering them on the Land Charges Register. Registration gives notice to the world that such charges exist. In the financial year 1999-2000, 98,433 new registrations were made.

Charges against *registered* land and properties are registered, not on the Land Charges Register, but on the Register of Title held by the Land Registry.

The Land Charges Register consists of books of application forms giving notice of charges. These are listed, not by the properties charged (which are not always precisely identified), but by the names of the persons whose properties are charged. A project just about to begin will scan these registrations so as to provide for an electronic Land Charges Register.

In the Land Registry's Customer Survey 2000, the Land Charges Department achieved a satisfaction rating of 98% for Speed of Service and 99.1% for Accuracy.

At the time of writing, on average 4,400 full name searches (excluding those which are "bankruptcy only") are made daily. In the financial year 1999-2000, 1.32 million such searches were made.

* This Chapter draws heavily on advice from Guy Sears, to whom I am much indebted.

9.2 Index of owners subject to charges and the national bankruptcy index

In accordance with the 1972 Act, the Land Charges Department holds a computerised Index of names of owners of unregistered properties (and some properties subsequently registered) which are the subject of any of the charges listed.

This charges Index also includes, in principle at least, the names of *all* persons who are the subject of bankruptcy applications or orders, including owners of registered as well as unregistered land and persons who own no land. It records against the person's name the existence of any:

- bankruptcy applications (pending actions on bankruptcy) when petitions have been made to the Court for making a bankruptcy order against an individual's estate, and
- bankruptcy orders (writs and orders on bankruptcy) which the Court has made against an individual.

The Court Service posts notices of all bankruptcy applications to the Land Charges Department. The Official Receivers attached to the Courts submit notices of all Court bankruptcy orders. The Land Charges Department flags with the letter B all entries on its Index for persons who are the subject of bankruptcy applications or orders.

Somewhat incongruously, therefore, the Land Charges Department Index doubles as a comprehensive national bankruptcy index, not specifically connected with land ownership, as well as an index of all charges registered against unregistered land. Persons accessing the index can request either full charges searches or bankruptcy searches.

The Index is indeed the only comprehensive national bankruptcy Index for England and Wales. It is an invaluable national resource, regularly searched by all who wish to know whether someone with whom they are contemplating doing business is bankrupt. Businesses and creditors make extensive use of it as well as lenders and conveyancers.

Bankruptcy only searches are running at around 12,000 names per day. In the financial year 1999-2000, 3.178 million bankruptcy only name searches were made.

A bankruptcy search can be made in one of the following ways:

- in person at the Land Charges Department, where a certificate can be issued immediately if required;
- by post using a Form K16, the certificate of result being returned by post;
- using LR Telephone Services, where an immediate oral result will be given followed by a certificate of result though the post;
- using LR On-line Services (Direct Access and LR Direct): an immediate search result is not given and the certificate of result is issued though the post;
- by FAX using Form K16, the certificate of result being returned by post;
- by TELEX (rarely used these days), the certificate of result being returned by post.

Plans are in hand to provide immediate results for Land Charges Searches using LR On-line Services. The results will be available through Direct Access and LR Direct. It is hoped that all Land Registry Information Centres, and not just Plymouth, will also shortly be able to provide formal certificates urgently where the need arises.

9.3 Index of Proprietors' Names

The Land Charges Department also maintains a comprehensive Index of Proprietors' Names.

Derived from the Land Registry's database, this Index lists all owners of registered property and charges against registered property and identifies the properties they own or over which they have a charge.

The Index of Proprietors' Names is not open to the public. Only prescribed categories of searcher are allowed to access the Index and their access is generally limited to requests for information on particular names. The categories include official bodies with the necessary statutory powers, executors of wills and trustees in bankruptcy.

9.4 Land Registry Bankruptcy Unit

As explained above, the Land Charges Department's bankruptcy index includes all persons who are the object of bankruptcy petitions or orders regardless of whether they own land or not. (As discussed below, it also includes persons who were previously but are no longer the object of such petitions and orders if they have not arranged for their names to be removed.)

Where such persons own registered land or charges, the Land Registry's Bankruptcy Unit at Nottingham records the existence of these petitions and orders on the Register of Title for the properties concerned and informs the persons concerned and their lenders (see further below).

Specifically, the LR Bankruptcy Unit enters on the Land Register

- creditors' notices, where creditors have made bankruptcy applications to the Court, and
- bankruptcy inhibitions, where the Court has made bankruptcy orders.

This ensures that anyone making searches of the Land Register, and likewise lenders, will be made aware that the owner is the object of a bankruptcy petition or order.

The Land Registry set up the Bankruptcy Unit five years ago. Previously the 24 District Land Registries were all responsible for making the necessary entries on the areas of the Register for which they were responsible. As explained below, however, the task is a specialist one. So the need for a specialist unit was clear.

9.5 Bankruptcy entries on the Land Register

As a practical matter, the LR Bankruptcy Unit receives the latest bankruptcy data every morning from the Land Charges Department. This comprises:

- the latest version of the bankruptcy index (this is available to the Unit online),
- a manual list of the latest amendments to the list (posted and hence possibly a day late), and
- a computer comparison of the latest additions and amendments with the Index of Proprietors of registered land mentioned above.

The computer comparison or “matching” is designed to help the Unit identify persons on the bankruptcy list who may also be owners of registered land or registered charges over land. In practice, especially for common names, the computer comparison typically identifies several registered properties whose owners’ names match the names on the bankruptcy index. To keep down the total number of possible matches, the computer software includes a sifting device which limits matches to owners of properties in the same or neighbouring counties. The Unit’s staff inspect the computer matches, confirm some, investigate others and discard others.

Where they believe an identity has been *established*, they attach a creditor’s notice or bankruptcy inhibition to the Register and inform the owner by post that they have done so. The lenders who own the charge against the property are also informed.

The Courts and Official Receivers, on the other hand, are not informed about the properties in which the bankrupt may have an interest.

Where the Unit’s staff decide that identities need to be *investigated*, they write to the owners with the matched names asking them to confirm or deny that they are the debtors named. If no reply is received after four weeks, the staff assume that the identity is correct and a notice or inhibition is placed accordingly on the Register. The owner concerned is notified again at that point, at the same address as before.

The lenders who own the charge against the property are also informed. However, in those instances where a notice determining identity is served, it may take up to four weeks before notification to the lender is issued. Notification of lenders about bankruptcy applications is in practice also sometimes postponed if the debtor tells the Land Registry that negotiations are taking place.

In some cases, inevitably, and especially in cases where the persons written to do not respond within the four weeks, the Land Registry unwittingly attaches notices to the Register entries of innocent people and informs their lenders as well.

For all the owners concerned, this can be a cause of considerable personal distress. For small businesses, dependent on their properties as collateral for the on-going financing of their businesses, such notices can precipitate an immediate financial crisis.

When bankruptcy notices or inhibitions have been entered on the Register, only the debtors (or the person wrongly assumed to have been the debtors) may apply for their removal.

The debtors are obliged:

- to apply to the Land Charges Department with the relevant Court order and pay a £1 fee for removal of their names from the Bankruptcy Index and then, separately,
- to apply to the Land Registry Bankruptcy Unit for removal of the bankruptcy entries from the Land Register.

Innocent owners who were not really debtors at all may sometimes not even be aware that the entries exist until they come to sell their properties. At that point they may have trouble with their lenders. To remove the offending entries from the Land Register, they have to apply to the Land Registry with evidence to show that they were not the debtor.

9.6 Retention and destruction of papers

Under the Land Charges Act 1972, all entries on the Land Charges Register are automatically removed after 5 years unless renewed by an interested party. Present practice is to destroy the original papers as well at the same time or shortly thereafter. Entries on the Land Register, on the other hand, are not automatically removed.

As discussed above, the debtor or alleged debtor has to apply for removal of Land Register bankruptcy entries. The Land Charges Department's destruction of the original papers can complicate matters when owners discover such entries more than five years after they were placed there.

9.7 Strategic objectives for Land Charges Department (other than bankruptcy)

The strategic objectives for the Land Charges Department's work on land charges other than the Department's main work on bankruptcy should, I suggest, be:

- i. to maintain an accurate and up to date Register of charges on unregistered land, as required in the Land Charges Act 1972, for as long as such a Register is needed
- ii. to manage efficiently the wind-down of the Land Charges Register as the Land Register approaches complete national coverage, and
- iii. as part of this, to consider whether and when the remaining entries on the Land Charges Register might best be taken on to the Land Register in a special "Charges only" category.

As implied by the first two objectives, the Land Charges Register (other than the bankruptcy entries) will shrink as the Land Registry registers the remaining unregistered land in England and Wales.

The programme sketched in Chapter 5, if delivered, would complete national coverage of the Land Register by 2010. As discussed there, there may be a case for registering sooner rather than later properties already identified on the Land Charges Register.

If that strategy is adopted, the Land Charges Register will shrink even more rapidly. A point may be reached sooner rather than later when the remaining entries might more conveniently be included in the Land Register, at least in cases where the land can be identified, possibly as a special “Charges only” category, than in a small and shrinking separate Register. This would need careful examination but could have two advantages:

- *searchers* who now have to search two Registers would be able to search only one, and
- phasing out of the Land Charges Register and completion of the Land Register might best be *managed* as two elements in a single programme.

On mortgages, the present regimes have the untidy consequence that the Land Registry and Land Charges Registers, between them, record most but not all first mortgages. This anomaly arises because the Land Charges Department has never recorded first mortgages. Under the Land Registration Act 1997, however, properties which now become subject to a first mortgage must be registered.

Historically, as discussed above, the Land Charges Register excluded first mortgages because Deeds retained by lenders were considered to provide sufficient protection. But potential buyers of an unregistered property would preferably be able to see on the Register whether it bears a mortgage charge. In addition, non-coverage of (the stock of) first mortgages for unregistered properties means that the aggregate mortgages statistics for England and Wales are incomplete.

9.8 Strategic objectives for recording of bankruptcies

In the important area of bankruptcies, I believe that the Land Registry’s main objectives should be:

- i. to ensure that the Land Charges Department, the Insolvency Service and the Court Service between them provide an accurate, complete and up to date national Index for England and Wales of persons who are the subject of bankruptcy petitions and orders, readily accessible to all who need to consult it
- ii. to consider the case for transferring responsibility for the Bankruptcy Index to the Insolvency Service
- iii. to introduce a new policy to remove names from the Bankruptcy Index after 3 years, unless extended, or earlier if the bankrupt is discharged earlier, while preserving the relevant documents in scanned form
- iv. to improve the quality of the Index and strengthen back-up facilities

- v. to record correctly the existence of bankruptcy petitions and orders in the Land Register for all the properties owned by the persons concerned
- vi. to re-engineer the processes for identifying the owners concerned, in co-operation with the Insolvency Service and the Court Service, so as to minimise the number of incorrect attributions
- vii. to ensure, in co-operation with the Insolvency Service, that Registry entries concerning bankruptcy are automatically removed or amended at the right time
- viii. to maintain, upgrade and complete the facility to search the Registers by proprietors' names
- ix. to streamline administrative processes through use of e-technologies and revised forms
- x. to deepen co-operation with the Insolvency Service and the Court Service, including feedback
- xi. to improve customer service through regular consultation with customers and
- xii. to strengthen governance in this area.

Objectives i to iv relate to the Land Charges Department and the Bankruptcy Index. Objectives v to viii relate to the Land Register entries and associated systems. Objectives ix to xii apply throughout.

9.9 Responsibility for the national Bankruptcy Index

The Land Charges Department has the important responsibility for maintaining a national Index of persons who are the subject of bankruptcy petitions or orders.

As discussed earlier, the Land Charges Department's maintenance of this Index as a subset of a Register recording charges against unregistered land is arguably somewhat anomalous.

Earlier in the last century, when there was no Insolvency Service and registered land was the exception rather than the dominant system, the Land Charges Department doubtless seemed a convenient home for this task. Court orders, pending actions and bankruptcy orders put buyers of property and lenders on property at risk like other charges. It doubtless made sense, therefore, to register these too as a land charge.

In today's world, these considerations still have some force. But there are several considerations which may suggest that the Insolvency Service would better take over responsibility for this Index:

- First, this would seem to be a *core task for an Insolvency Service*. For members of the Land Registry family, on the other hand, it feels like an important additional responsibility rather than a core task.

- Second, the Index relies entirely on *information supplied by the Court Service and the Insolvency Service's Official Receivers*. Land Charges simply receive these data and record them in an Index that forms an identifiable part of their wider Register.
- Third, there should be scope for the Insolvency Service with the Court Service to develop their information systems so as to *generate this Index automatically* without the complication, delay and expense of having to transmit the data to the Land Charges Register for reformatting, deciphering (in some cases) and re-inputting into the Land Charges Register.
- Fourth, in terms of *responsibility and accountability*, it would seem far better that the Insolvency Service should be unequivocally in charge of this Index rather than share responsibility with the Land Charges Department.

A further consideration is that the Insolvency Service itself now maintains an Individual Insolvency Register. This Register records persons named in bankruptcy orders but not persons named in petitions. The rationale for this seems to be that the Insolvency Service has no role in cases prior to making of the bankruptcy orders. The number of searches, some 31,600 a year, is however very small compared with searches of the Land Charges Department's Index, which does include persons named in petitions.

There would seem to be considerable advantage in having a single national Bankruptcy Index rather than two Indexes. The single Index, moreover, should include persons named in petitions as well as persons named in orders. Without this, the security the Index offers to creditors and others contemplating doing business with the debtors named would be much reduced. The Index should, moreover, preferably extend to persons named in Scottish as well as English and Welsh proceedings.

For all these reasons, the case for transferring responsibility for the Bankruptcy Index to the Insolvency Service looks to be strong. An Insolvency Bill would probably be needed to accomplish the transfer.

The Land Registry and the Land Charges Department would, however, continue to need to include cross-references to the Index in their own Registers. With closer co-operation between the bodies concerned and improved procedures for naming and identifying bankrupt persons, and with the help of information technology, this should be entirely feasible.

9.10 Completeness, timeliness and back-up of Bankruptcy Index

Whatever the decision on responsibility may be, there are certain issues on completeness and timeliness that need to be addressed anyway.

On completeness, it is not clear that anyone is specifically responsible for ensuring that *all* Courts and *all* Official Receivers *always* report *all* bankruptcy petitions and orders to the Land Charges Department. If the Insolvency Service had responsibility for the Index, it would be easier to ensure universality.

On timeliness, the Department places all notifications of petitions or orders received on the Index within one or two working days. It seems, however, that there are sometimes delays of some days before Court notices of petitions reach the Department. Whether the delays occur at the Courts or in the post is not clear. Similarly, the Courts send notices of bankruptcy orders to the Official Receivers, who in turn send them to the Land Charges Department.

The Court Service, the Insolvency Service and the Land Charges Department would do well, in my opinion, to work together to ensure that all petitions and orders reach the Index with a minimum of delay. The new e-technologies should facilitate this. The longer the delays are, the more time unscrupulous bankrupts have to borrow money or make other arrangements and transactions which, but for the delay, they would not have been able to do.

On back-up, the Land Charges Department duplicates the Land Charges Register, including the Bankruptcy Index, each evening for storage off site elsewhere in Plymouth area but the originating documents are not stored in copy form elsewhere. With scanning, it should be relatively simple to ensure that a copy of the file containing all scanned documents is also stored off site each day.

9.11 Removing names from the Bankruptcy Index and destruction of documents

As explained earlier, all bankruptcy entries on the Land Charges Register are automatically removed after 5 years, in accordance with the Land Charges Act 1972, unless renewed by an interested party. Present practice is to destroy the original papers as well at the same time or shortly thereafter. The 5 years runs from the date of the application or subsequent amendment.

It would seem that these practices (and the analogous practice of cancelling entries relating to Court orders in matrimonial disputes) need to be re-considered.

The automatic removal of names from the Index after five years seems out of keeping both with the present bankruptcy regime in England and Wales and with the Government's recent proposals for improving the regime. Under the Insolvency Act 1986, most bankrupt persons are discharged within three years. Discharge releases the bankrupt from various restrictions on obtaining credit and holding offices. It also terminates the period within which property acquired after bankruptcy may be claimed for the estate or orders made to require part of any existing income to be paid to the estate for the benefit of creditors. It does not re-vest into the bankrupt any part of the bankruptcy estate.

It seems wrong to keep names on the Index after the persons concerned have been discharged. Equally it seems wrong to take names off the Index in the (relatively rare) cases where the Court has postponed discharge of the persons concerned. In that event, the Official Receiver or the Trustee in Bankruptcy must apply to keep the names on the list. Otherwise they will automatically be removed after 5 years.

A better approach, it seems, would be to redefine responsibilities and practices as follows:

- the Court Service to inform the Land Charges Department as soon as a petition has been dropped (in which case the Land Charges Department would remove the name of the person petitioned against from the Index) or superseded by a Court order (in which case the name would remain on the Index)
- the Insolvency Service (Official Receivers' offices) to inform the Land Charges Department as soon as a bankrupt has been discharged. Land Charges Department would then remove the name from the Index
- the Land Charges Department to remove the name automatically from the Index at the end of the third anniversary of the bankruptcy order or amendment unless the Insolvency Service renews it.

Section 9.15 discusses the related, but different, issue of removing notices and inhibitions from the Land Register.

The present practice of destroying documents after 5 years, alongside the removal of Index entries, seems wrong. This practice removes audit trails and evidence which may still be needed.

The practice probably reflects problems of storage in the days before scanning when all documents were paper.

With the advent of scanning, a better practice in my opinion would be to be to clear the Register, as discussed above, but retain the documents in scanned form.

9.12 Quality of Bankruptcy Index: names and identification

The Bankruptcy Index suffers from a serious quality problem in that it fails in many cases to identify properly who the persons listed in the Index are.

This makes the Index far less useful than it ought to be and indeed worse than useless in some cases. It causes particular problems for the Land Registry when trying to enter creditors' notices or bankruptcy inhibitions on the Registers of property or charges belonging to the people concerned.

The problem arises because names in the Index are often inadequately expressed. Peter John Tobias Smith, for example, will often be entered as P Smith. But there may be thousands of P Smiths in the country. A high proportion of names expressed as a single initial and a surname will be shared in this way by large numbers of other persons.

The problem is most severe in relation to petitions. The Courts' Insolvency Rules do not require that petitioners should provide full details about debtors' names or other means of identification. They say only that the petitioner should provide information so far as is within his or her knowledge of the debtor's name, place of residence and

occupation. The debtor's full name is not required. It appears that creditors often either do not know these details when issuing a petition or (perhaps more often) do not think it worth while to search their records to find out.

The problem persists at the stage of bankruptcy orders. But once the Official Receivers of the Insolvency Service are involved, amendments to names may often be filed following interviews with the bankrupt person. Even then, there appears to be no uniformity of approach. Neither is there any service level commitment from the Official Receivers to the Land Charges Department to file such amendments promptly.

The fact that no other means of identification is required compounds the problem. Addresses are required but are not taken as conclusive evidence of identity.

In my opinion, the Insolvency Service, the Court Service and the Land Charges Department need to solve this problem together.

A possible strategy, after due consultation, would be:

- The Courts and the Insolvency Service might announce that lenders and others who bring bankruptcy petitions in respect of loans made from a specified date will be required to identify their debtors by their full names and addresses and dates of birth or (better still) national insurance numbers.
- If they do not provide this information, they might be required to submit sworn evidence that they have no further information on the debtor's name or identity before the Court can receive their petitions.
- They might also be required to pay higher Court fees to offset the greater costs for the authorities in dealing with their petitions.

Statutory cover for such changes would need to be obtained through secondary legislation.

Some of those whom I consulted argued that it would be going too far to expect small creditors to obtain the information suggested for all their potential debtors at the outset. In practice, however, creditors can only begin bankruptcy proceedings if the undisputed debt is £750 or more. So the proposed provisions would not apply to smaller routine credit transactions.

Others insisted that creditors must be able to bring petitions even if they do not have full details of their debtors' names. There is no suggestion, however, of *preventing* creditors from bringing bankruptcy petitions if they do not have such details. They would still be able to bring such petitions but they would have to swear that they have no further information on the debtor's name or identity and they might be obliged to pay higher fees.

In my opinion, it must be good practice for lenders and creditors to obtain reasonably full details about their borrowers and debtors and to make it available to the Courts

when filing petitions. The extra burdens involved in obtaining good information rather than patchy information could hardly be very great.

It would seem highly desirable, moreover, to encourage such good practice in the way proposed. The extra protection for persons transacting business with persons named in bankruptcy proceedings would be valuable. In addition, the extra costs for the Land Charges Department, the Land Registry and others resulting from inadequate information on names and identity are very great. But for this problem, the system could be largely operated electronically, with very few staff.

9.13 Processes for compiling Bankruptcy Index

A further problem with compilation of the Bankruptcy Index is that the Court Service and Insolvency Service submit data to the Land Charges Department in ways that necessitate much further work by the Department, most of it unnecessary, before the entries can be made in the Index.

Particular problems are:

- The Court Service and the Insolvency Service use forms which were never agreed with the Land Charges Department. The processing necessitates much clerical labour.
- The Courts use a variety of versions of the form. The High Court forms are mostly typed but troublesome to read and assimilate because of layout and fonts. Other Courts mostly make handwritten entries which are often difficult to decipher and ambiguous. In a few cases, the data are computerised. But the systems used cannot communicate with the Land Charges Department's systems and the information has to be re-processed for the Land Charges Department's computer.

The obvious solution to these problems is for the Court Service and the Insolvency Service to agree with the Land Charges Department that they will input their data to the Land Charges Department in electronic form such that the Register Books and the Bankruptcy Index can be generated automatically with a minimum of human intervention.

The Land Charges Department has plans already to scan all applications with a view to inputting them from the screen. It would seem desirable to extend this programme so as to include

- revision of the forms as a matter of urgency and then
- introduction of a system of electronic inputting on the lines sketched above.

Joint training programmes for Land Registry, Insolvency Service and Court Service staff could also be invaluable.

With these changes and the changes discussed earlier on names and identities, it should be possible to improve the quality of the Register and the Index while greatly reducing the staff effort needed to maintain it.

9.14 Bankruptcy entries on the Land Register

Where persons who own registered land or charges over registered land are the object of bankruptcy petitions or orders, the Land Registry quite rightly reckons to place a creditor's notice or bankruptcy inhibition against their names in any Land Register entry where they appear. This gives due warning to anyone who may have or contemplate acquiring interests in the land. No similar attempt can be made to tie up entries in respect of unregistered land in the Land Charges Register. In such cases the buyer's conveyancer has to search the bankruptcy index and if in doubt obtain evidence from the seller or borrower that the seller is not the debtor.

As discussed in section 9.5, however, the task of identifying the Land Register entries where these notice and inhibitions should be added is little short of a nightmare.

In my opinion, the staff at Land Charges Department and the LR Bankruptcy Unit do a remarkable job with the material they have. But they risk failing to attach notices or inhibitions to the right person and properties on the Register. They likewise risk attaching notices or inhibitions to the wrong person on the Register.

The risk of failing to attach notices or inhibitions where they ought to have been attached arises from the following sources:

- First, *the Land Charges Department's software, including the sifting device*. Where debtors have common names such as P Smith, the Land Charges Department reduces the number of different names they need to investigate by limiting their review of common name matches to the county where the debtor is believed to live (as evidenced by his address) and the adjacent counties. This sifting device will result in properties owned by debtors in other counties being overlooked. The software may have other problems as well on matching names and identifying amendments.

The solution is clearly, as discussed in the previous section, to identify the persons concerned properly in the first place so that the sifting device is not needed.

- Second, *registration of false or obfuscatory names*. Bankrupts may, quite legally under present law, have registered their properties not under their own names but under the name of a company or trust or an alias. In these cases too notices and inhibitions that ought to have been attached will not be.

The solution, as discussed in Chapter 5, is for the Land Registry to require those who register ownership of properties to declare the true or beneficial owners of the properties registered. Without this information, the important Index of Proprietors' Names maintained by the Land Registry is nowhere near as valuable as it should be.

- Third, *lying debtors*. Debtors who receive letters from the Land Registry asking whether they are the debtor of the same name may claim not to be when in fact they are.

There is perhaps no total solution to this problem. So far as we are aware, however, debtors do not at present commit an offence by denying to the LR Bankruptcy Unit that they are the debtors in question. The forthcoming Land Registration legislation could rectify this.

- Fourth, *joint owners*. The Land Registry does not at present show more than four joint owners of a property on the Register. This is in accordance with section 34 of the Trustee Act 1925 and section 95 of the Land Registration Act 1925. If a bankrupt person is a joint owner but his name is not shown, therefore, he (or she) will not appear on the Index of Proprietors. No notice or inhibition will be attached to his (or her) name and it will not be clear to creditors searching that property that the bankrupt person has an asset they could in principle pursue.

This could be solved by amending both the Trustee and the Land Registration Acts.

No less seriously, even if a bankrupt joint owner does appear on the Register, the Registry is still not able under present law, despite the risks to an intending purchaser, to attach a notice or inhibition to the Register.

This problem arises because joint owners are deemed to hold land in trust. Formally, their interest as trustees attaches not to the land itself but to the proceeds of sale. The trust “over-reaches” the beneficial interest beneath it. When a joint owner becomes bankrupt, he is not thereby disqualified from being a trustee. He continues to hold the land in trust for any other joint owner and for the trustee in bankruptcy. Since he continues to be a trustee and his registered interest is not in the land itself but in the proceeds of sale, the Registry itself cannot attach a notice to the ownership Register. The trustee in bankruptcy may ask for a caution to be placed on the Register but will not necessarily do so.

This state of affairs seems unsatisfactory. One consequence is that a bankrupt person can in principle prevent the Registry from noting the Register by appointing his wife as a joint owner and co-trustee.

There would seem a strong case for treating a bankrupt joint owner as nearly as possible in the same way as a bankrupt single owner. Some possibilities that might be considered in this connection are:

- i. The law might be amended so as to disqualify a bankrupt person from acting as a trustee of land. Bankrupt persons are already disqualified from being Directors of companies. The trustee in bankruptcy could then appear on the Register instead, thus giving due warning to any intending purchaser.
- ii. In addition, the Registry itself might have powers to lodge a caution on the Register, either on its own behalf or on behalf of the Court or the Official Receiver, when notified of a bankruptcy petition or order against a joint owner.

- iii. The Register could record all the owners even if transfers for value could be validly signed by only the first four.

The risk that Land Registry Bankruptcy Unit staff may attach notices or inhibitions to the *wrong* properties and owners on the Register, that is to persons other than the true debtor and their properties, is probably at least as serious.

As explained in section 9.5, the staff make a practice of writing to all persons who look from their names as if they might be the debtor and ask them whether they are the debtor or not.

If some of the persons are wrongly identified but for one reason or another do not write back to that letter or the next letter, the Land Registry will attach notices or inhibitions to their Register entries and inform their lenders. This may be a source of considerable distress, especially for persons who run small businesses.

It might be argued that the persons concerned have only themselves to blame. But they may be old and infirm. Or busy. Or careless about opening their post. Or absent throughout the period. Or they may misguidedly assume that as they are innocent they can safely ignore the letters.

It is clearly far better to set up the system so that such letters do not have to be sent in the first place. This depends above all on solving the problems over names and identity discussed in the preceding section.

It is not clear how widespread these problems are in practice. There is a case for commissioning some research to assess this.

In my opinion, however, whatever results the research might indicate, the public bodies concerned should preferably have systems that make it highly unlikely that creditors' notices and bankruptcy inhibitions will be attached to the wrong properties and owners.

The Court and Insolvency Services need to introduce new procedures, as proposed earlier, to ensure that debtors are properly and unambiguously identified.

The Land Registry could do several things if necessary to reduce the risks of misattribution. Some possibilities for consideration are:

- making “provisional” entries only against properties with owners whose identity with persons who are the object of bankruptcy petitions has not been established with absolute certainty,
- revisiting Register entries provisionally made at the petitions stage when better identification becomes available at the bankruptcy order stage or on later amendments,
- comparing bankrupt persons' declarations of property assets with the Register entries they have made pursuant to a bankruptcy order, and

- requiring the owners of all properties to list any other properties they own as well (in principle Official Receivers do this already and amend the orders accordingly).

Whatever options in this list or other options are pursued, the Registry should clearly keep records of all the notices and inhibitions they have attached to the Register as a result of each name that has appeared on the Bankruptcy Index. Such attachments could then be identified and immediately expunged as soon as it emerges that they were based on mistaken identities.

9.15 Removing creditors' notices and bankruptcy order from the Land Register

As explained in section 9.5, only the debtors (or persons wrongly assumed to have been the debtors) may apply for removal from the Land Register of bankruptcy notices and inhibitions. No one else can do this on their behalf. The Land Registry itself does not take the initiative in removing such entries.

In my opinion, this aspect of the present regime too needs to be re-considered. A better regime would be one where:

- i. The Court and Insolvency Services would inform the Land Registry whenever petitions submitted earlier are dismissed and whenever bankruptcy orders are annulled. Annulment is a declaration that the order should not have been made. The order is then removed and the petition dismissed.
- ii. The Land Registry would correct and update the Register entries without prompting by the debtor on receipt of the necessary information from the Court and/or Insolvency Services.

There remain some issues as to what form such correcting and updating of the Register should take.

Where a petition is dismissed or the order annulled, the Registry could simply delete the creditor's notice or bankruptcy inhibition from the Register.

When bankrupt persons are discharged, on the other hand, and their names are removed from the Bankruptcy Index, the Land Registry cannot and does not simply drop the corresponding Register entries.

The legal position on estates registered in the Land Register is different from that with regard to the bankrupt persons themselves.

The Court typically discharges bankrupt *persons*, on application from their trustees in bankruptcy, within three years. They are then no longer prohibited from taking on certain roles nor obliged to declare that they are bankrupt when entering certain kinds of transactions specified in the law.

The bankrupt person's *estate*, on the other hand, remains subject to a charge until the trustee in bankruptcy vests it in another owner, either the formerly bankrupt person or someone else, or until the order is annulled. Up to that point, the estate remains

available to discharge the formerly bankrupt person's debts. If the value of the estate has risen, for example because of property price inflation, it may become possible to pay debts that previously seemed unpayable.

Consistently with this legal position, the Land Registry does not accept applications from former debtors to remove bankruptcy inhibitions from the Register when the bankrupt concerned is discharged. These entries are removed only when the trustee in bankruptcy transfers the property to a new owner or when the Court (on request and payment of a fee) orders their removal.

In my opinion, however, the Land Registry would preferably take the initiative in

- removing the creditors' petition notices from the Register if the petitions are dismissed and
- removing bankruptcy inhibitions from the Register if the related bankruptcy orders have been annulled.

The Land Registry would then be more even-handed in its treatment of bankruptcy entries. The risk of outdated entries (and erroneous entries) staying on the Register would be reduced. The process could be largely automated. The hassle, expense and possible errors and omissions in personal applications by former debtors or assumed former debtors would be avoided.

The Land Registry should anyway in my opinion have a duty to remove erroneous entries from the Register on its own initiative, and to inform the person concerned, as soon as they are found to be erroneous. The owners affected by the erroneous entries should not be obliged to apply to have them removed.

Even if the Registry has such a duty, the problem remains that Registry staff may never know that the entries were erroneous unless they take specific steps to find out. The previous section suggested what such steps might be.

9.16 Feedback from Land Registry to Insolvency Service

A further point on the present regime that needs to be re-considered is the absence of any feedback from the Land Registry to the Official Receivers of the Insolvency Service.

As discussed above, the Land Registry goes to considerable lengths to identify properties owned by persons who are the object of bankruptcy petitions or orders.

With electronic systems, it would be a simple matter to copy this information electronically to the Insolvency Service to assist them in ensuring that bankrupt persons do not hide assets they ought to have declared.

9.17 Deepened co-operation between Land Charges Department, the Land Registry, the Insolvency and Court Services

The scope for deeper co-operation between the Land Charges Department, the Land

Registry, and the Insolvency and Court Services has been a *leitmotif* of the preceding discussion. Such co-operation has in the past been much too limited.

Senior officials from each of the Departments and Services should meet twice a year to discuss how they can work together to deliver the best and most cost-effective service to the public and in particular to introduce the kind of improvements discussed in this Chapter.

At working level, officials of the bodies concerned should likewise be regularly in touch with each other.

The need for deepened co-operation will remain even if the Insolvency Service takes over responsibility for the Bankruptcy Index.

9.18 Customer service

In contrast with other areas of Land Registry activity, the Land Registry, the Land Charges Department and the Insolvency and Court Services, between them, have possibly done less than they might have done in the area of customer service.

There would seem a strong case for consulting users of the Bankruptcy Index and related services about

- how they view the present services
- what ideas they may have for improvement, and
- what they think about the ideas for developing the services discussed in this Chapter.

9.19 Governance

Within the Land Registry family of Departments, the Land Charges Department and the Land Registry Bankruptcy Unit have both operated as separate self-contained units, remote from each other and from the rest of the Registry.

No one person in the Registry's senior management beneath the Operations Director has had specific responsibility for overseeing this important group of operations.

These features may help to explain why many of the wider issues discussed in this Chapter have yet to be fully addressed.

In my opinion, a member of the Land Registry's senior management team should have specific responsibility for

- overseeing the work of the Land Charges Department and the LR Bankruptcy Unit
- advising on the possible transfer of responsibility for the Bankruptcy Index to the Insolvency Service

- ensuring that there is a properly integrated plan for extending the Land Register, winding down the Land Charges Department and redeploying the staff to other areas
- ensuring the deepest co-operation with the Insolvency and Court Services, including integration of processes, and
- pursuing the rest of the agenda discussed in this Chapter, summarised in section 9.8.

9.20 Agricultural Credits Register

Another member of the Land Registry family of Departments is the Agricultural Credits Department.

Established by the Agricultural Credits Act of 1928, at a time when the Government was anxious to facilitate lending to farmers so as to stimulate food production, the Agricultural Credits Department records in an Agricultural Credits Register the existence of loans to farmers secured as second mortgages on land or on farming assets other than land.

Some farmers are corporate entities. In these cases, company law governs the creation and registration of any charges they may accept.

There are several ways in which non-corporate farmers may offer security to a lender.

First, they may secure loans against their land. The charges involved may be of three kinds:

- i. Charges on registered land are registered at the Land Registry as they would be for any other person.
- ii. Charges on unregistered land are (again like a mortgage by someone who is not a farmer) commonly secured by deposit of the title deeds with the lender.
- iii. Second or later mortgages are not secured by deposit of title deeds. The lender who wants protection must therefore register them at the Land Charges Department as class Ci Land Charges (puisne mortgages) against the name of the borrower.

Second, they may secure loans against assets other than land. Lenders may be willing to take charges on assets such as machinery, crops, livestock and poultry.

As a practical matter, charges over assets that need to be replaced and consumed, or that may not yet exist, are not always easily created or usable under the common law. In companies, the floating charge is used to solve such problems. But this facility is not available to individuals.

The Agricultural Credits Act 1928 solved this problem by creating a new type of charge that gave lenders enforceable security over changing assets. The Act required

that lenders register such charges in return so as to give notice to other creditors.

Lenders register charges by giving notice to the Agricultural Credits Department within 7 clear days of creation of the charge. If registration is late, the charge is void against all other creditors and has in practice to be cancelled and recreated.

The Agricultural Credits Register records

- the name of the farmer,
- the name of the lender,
- the nature of the charge, in particular whether it is fixed (like a barn) or floating (like animals), and
- the amount of the charge, which may be expressed as a fluctuating amount under a bank account.

The Department does not receive or consider the charges themselves. So long as the applications for registration are duly completed, registration can occur subject to three points.

First, the Act provides, as already mentioned, that no charge can be registered after 7 clear days. This rule is built into the software.

Second, the Act also provides that only living persons or certain agricultural societies can create such charges. That is, farmers who are companies cannot grant these charges. The software does not build in this rule but it would be a simple matter to remind staff on the entry page of the Access file that if the grantor appears not to be an individual they should satisfy themselves that an entry can be made.

Third, the Act provides that only authorised credit institutions can take the charges. In practice this means banks regulated by the Financial Services Authority. In practice it appears that only three or four banks are currently active in this market. The software could, however, include the number for the Financial Services Authorities' central database in case a new (perhaps EU based) lender should appear on an application.

The main users of the Register are:

- the four banks already mentioned,
- UKASTA (the UK Agricultural Supply Trade Association), and
- the Liverpool and London Trade Protection Society Limited's Agricultural Credit Bureau, which holds a large database of credit status for the UK's agricultural holdings.

9.21 Agricultural Credits Department

The Agricultural Charges Department is quite small. Registrations average about 8 to 10 per day. Searches are running at up to 30 per day.

Staff based at the Plymouth Land Charges Department maintain the Register (with appropriate back-up) through a single PC running a purpose-written Access file. The task occupies no more than the equivalent of one person's time.

The same programme is used to scrutinise and enter applications and to produce official searches and registrations. Registrations and searches are all effected on the day of receipt.

Fees are at present extremely low, at £1 for registrations and 50p for searches. The costs of the operation, though low, cannot realistically be covered at these levels and some increase is needed.

Under the 1928 Act no fee can be charged for banks' searches by personal attendance but such searches in practice rarely happen.

9.22 Future options

The traditional "prior options" questions are clearly relevant in considering the future of this Register:

- (a) Should the service should be provided at all, bearing in mind that no similar service is provided for other sectors?
- (b) If so, does the public sector need to provide it?
- (c) If not, what would be involved in transferring it to the private sector?

The answer to the first question is probably yes. The ability of lenders to take charges of the kind defined in the Act, with priority over later creditors, continues to facilitate lending to farmers. If these charges and priorities are to continue, there needs to be a searchable Register of notice so that other potential creditors may know the position. The Civil Aviation Authority's Register of aircraft mortgages offers a similar facility in a different field.

The answer to the second question is probably no. Some obvious possibilities are:

- (a) With suitable safeguards, a private sector operator could *possibly* take over and own the whole operation, though there could be problems in a commercial firm taking on this role
- (b) The present unit, tiny as it is, could *probably* be converted, perhaps through a management buy-out, into a private corporation governed by statute
- (c) A private sector body could *certainly* be contracted to operate the Register on behalf of the Lord Chancellor.

The answer to the third question is that transferring the Register as a whole outside the public sector, as in options (a) or (b) above, would not be entirely straight forward.

Any privatisation on these lines would require changes in the Agricultural Credits legislation and a substantial input of management time for little or no discernible gain.

It would be for consideration whether a commercial body could properly be allowed to take over the function (and if so what regulation would be needed). A not-for-profit subsidiary of a banking body such as the British Bankers Association or a statutory corporation formed from the present unit might be better suited to the task than a normal commercial firm. The Memorandum and Articles of the subsidiary or a management buy-out company would need even then to be carefully considered.

If the Government had no other priorities for legislation, and the Land Registry had no other pressing priorities, such as completing the Register, extending its coverage and introducing e-conveyancing and accompanying reforms, there might be a case for examining these privatisation options further.

In practice, it is hard to believe that the Government would wish to give any priority to this in the foreseeable future.

Contracting out the operational task, as in option (c), would be much simpler. Once again, however, this seems not worth while or cost-effective for the sake of saving one full-time equivalent member of staff.

The only option, therefore, that seems worth considering for the shorter-term is to transfer the Register to MAFF and to substitute the Minister of Agriculture for the Lord Chancellor in the legislation. This would have the advantage of placing the operation in the Department where the main policy interest lies. Once again, however, it would seem perverse to attach any high priority to such a change.

10 STRATEGY: ADJUDICATION, EDUCATION, PUBLICATION AND ADVISORY SERVICES

10.1 Overview

This Chapter discusses a strategy for extending the Land Registry's activities so as to improve and deepen the services provided to practitioners and the public (and to certain Governments overseas) and help to promote transparent markets. It covers the pillar 5, 6 and 7 strategic objectives in the Box 4.3 list:

To promote with others transparent and well-functioning markets in land, property and mortgages, through fuller disclosure on the Register of financial information on leases and mortgages (Oct 2003) and monthly publication jointly with the VOA and others of much enhanced national, regional and district data for the property markets (Oct 2003)

To provide (by Jan 2003) a fully independent adjudication service in the Land Registry

To launch education and publications units (Dec 2001) and self-financing advisory services for international consultancy, registration and title issues, and title plan preparation (Jan 2002), and for lay-conveyancers and historical research (Jan 2003)

10.2 Conciliation and adjudication services at present

Land Registry staff often help owners of land and property to settle disputes, especially boundary disputes and adverse possession cases (where the occupier of a piece of land does not have documentary title but wishes nevertheless to claim it). This invaluable service has developed from the Registry's statutory obligations. It often helps the parties concerned to resolve their differences in a sensible and cost-effective way. It also relieves pressures on the Courts.

In each of the 24 District Land Registries, legal staff are willing on request to provide informal advice and conciliation, including site visits.

This is a public service for which no charge is made. The Land Registry does however sometimes share an interest with the parties concerned in promoting acceptable solutions, especially when the Register entries or title plans are faulty or unclear. In such cases the alternative to conciliation might sometimes be a protracted dispute, possibly reaching the Independent Complaints Reviewer, the Ombudsman or the Courts, in which the Registry would have to invest many hours of senior legal time.

Where agreement cannot be reached in this way, the statutory Rules require that the Solicitor to the Land Registry will hear cases in the capacity of adjudicator (though he may if he sees fit refer the case to another Court). Sometimes another senior lawyer acting as a Deputy Solicitor under regulations made by the Lord Chancellor, will conduct the hearing. These hearings take place either at Land Registry headquarters or at a district land registry, if that is more convenient for the parties.

On average, Land Registry staff refer around 80-90 applications or objections each year for adjudication by the Solicitor or one of his deputies. About half of them are

settled by agreement outside the door of the Court (or in this case the adjudicator). In practice this means that one or both of the parties agree to withdraw their applications or objections. The interval of time between a case being set down and finally determined is typically around 3-4 months.

Parties to the adjudication have an absolute right to appeal to the High Court. In practice appeals have been very rare.

The Land Registry offers the adjudication facility, like the informal advice and conciliation at District level, as a public service. Once again, no charge is made. The parties do, however, have to pay their own legal advisers and representatives. The adjudicator usually awards costs to one party or the other or shared costs.

10.3 The case for restructuring the adjudication service

In my opinion these are invaluable services. The Registry is able at limited cost to field some of the most experienced lawyers in the country to help in the speedy and effective resolution of disputes. The District Land Registry lawyers provide in effect a highly effective form of Alternative Disputes Resolution. The Solicitor and his Deputies, in their role as adjudicators, fulfil a similar function to that of the best Tribunals in other fields. No Court in the country could readily muster a comparable combination of relevant expertise, experience and speed. For those who have disputes, the existence of the services is a great benefit, often saving them from protracted legal cases, anxieties and expense.

There seems, moreover, to be no problem of overlap with other formal disputes resolution machinery or tribunals. The Lands Tribunal and the Valuation Appeals Tribunals, in particular, deal with a different range of cases, mostly involving valuations.

For all these reasons, the Land Registry should continue, in my opinion, to provide the present services.

There is however one problem, potentially at least, in the Land Registry's provision of the adjudication service. The Solicitor to the Land Registry, who acts as Chief Adjudicator, couples this role with the roles of Chief Legal & Policy Adviser to the Land Registry and line-manager for the 24 District Land Registrars. He is responsible for

- advising on and overseeing the Land Registry's legislation, procedures and practices,
- dealing with difficult and contentious cases, not least where the Land Registry's guarantee of title and possible payments of indemnity may be at issue, and
- overseeing the work of the 24 District Land Registrars who deal with the most complex and contentious casework.

The other senior solicitors who sometimes conduct hearings on his behalf, and the other solicitors who support them in these roles, have a similar multiplicity of roles.

In principle, therefore, the Solicitor and his deputies in the role of Adjudicator may face conflicts of interest. Or at least they could be perceived to do so. They give judgement in relation to systems and practices for which they themselves bear a major responsibility. The Government body they serve has an interest in limiting calls on the guarantee. In cases where the Government body itself may have been at fault, moreover, they might be deemed to be less than impartial.

In practice, potential conflicts of interest such as these seem not to have been a problem. The Solicitor and his deputies have an enviable reputation for fairness and impartiality. Disputing owners have continued in increasing numbers to use the adjudication service. Appeals to the High Court against the Solicitor's judgements have been rare and reversals almost unknown.

The Land Registry itself, moreover, has recently introduced new internal rules designed to make a practical separation of roles in particular cases. The rules deal with the transition from the administrative phase of work on cases to the judicial phase and with the conduct of hearings. The Solicitor or other lawyer who conducts the hearing must not have been involved in earlier work on the case. If there is any question of indemnity payments by the Registry, similarly, the Chief Land Registrar, advised by yet another lawyer, deals with the matter.

Admirable as the Land Registry's handling of these matters has evidently been, however, it would in my opinion be still better to separate the Adjudication function altogether from the other functions. The Solicitor himself shares this view.

10.4 Suggestions for a new structure

The simplest way, in my opinion, to achieve such separation, without losing the advantages of the present arrangements, would be to set up a *separate Adjudication Tribunal, Unit or Office* to undertake the duties that the Solicitor and his Deputies now undertake in their adjudication roles.

The forthcoming Land Registration Bill would preferably provide, I suggest, for the Lord Chancellor to appoint a Chief Land Adjudicator alongside the Chief Land Registrar and the Solicitor to the Land Registry. This would be a separate and self-contained office. Both the Chief Land Adjudicator and his or her staff would work on adjudication matters only and not on other Land Registry business.

In my opinion, the Chief Land Adjudicator and the Adjudication Unit would best remain *within* the Land Registry family. The Unit would preferably be located inside the Land Registry, financed by the Land Registry and staffed largely if not totally by former Land Registry lawyers.

Initially at least, the Unit would preferably consist of four staff:

- the Chief Adjudicator,
- a Deputy Chief Adjudicator,

- a Clerk or Legal Assistant, who would be the Unit's specialist point of contact with the parties bringing cases for adjudication and their lawyers, and
- an office assistant.

The Chief Adjudicator and his or her Deputy would both be part-time appointments. The other two staff members could be either part-time or full-time depending on the volume of business. The office assistant could also have duties in the rest of the Land Registry without raising problems of conflicts of interest.

The Chief Adjudicator and the Adjudication Unit would preferably have power to levy reasonable charges with a view to covering its own expenses, in part or in whole. The Chief Adjudicator and his or her Deputy would also have power, as the Solicitor now has, to award costs.

The Chief Land Adjudicator and the Adjudication Unit could alternatively be located outside the Land Registry altogether. In that way the clearest possible separation of functions would be achieved.

On balance, however, the better course in my opinion would be to keep the Unit within the Land Registry. The main considerations are:

- i. Establishing the Unit outside the Land Registry could suggest that the Land Registry is not impartial in its other work. That would be both incorrect and damaging
- ii. The Unit would more easily refresh its expertise in land registration on a continuing basis if it worked in close proximity to others at the Land Registry
- iii. The combination of the statutory provisions and separation of the Solicitor's other responsibilities should sufficiently ensure the Chief Adjudicator's independence
- iv. Correct as it undoubtedly was to set up the Independent Complaints Reviewer outside the Land Registry, there would be considerable disadvantage in multiplying the number of small independent bodies involved in Land Registration
- v. Requiring the Unit to set up a separate office and separate administration and financing arrangements would be a considerable diversion of effort as well as an unnecessary expense.

As to timing, the new Unit might best be launched in about eighteen months time. By then, the new Land Registration Bill should have passed into law. By then, too, the way ahead on Sir Andrew Leggatt's Review of Tribunals should be clear. On present indications the conclusions of that Review are likely to be consistent with the proposals in this Chapter. It will be important to maintain such consistency through the implementation phases.

10.5 Education and training service

As discussed in earlier Chapters, the proposed new Land Registration Act and the introduction of e-conveyancing, with the associated changes in the national processes for buying and selling houses, will constitute a mighty revolution.

The revolution will transform the way in which Land Registry staff and outside practitioners do their business. The requirements for change will be even greater than in the two previous revolutions in land registration, in 1862 when the Land Registry was established and in 1925 when the present law was enacted.

There will be a massive task of change management.

Within change management, success or failure will depend on an effective programme for education and training. The programme will need to achieve the highest standards of quality and penetration. It will need to reach both Land Registry staff and outside practitioners.

The Land Registry already puts considerable resources into education and training programmes. Annual expenditure on training is nearly £12 million, around 7 per cent of the payroll.

The present training takes place in three main areas:

- District Land Registries, supported by the Operations Development Group, provide most of the training for operational staff. New systems like computer mapping call for several weeks of training.
- The Personnel Department administers more general management training for staff. A new Land Registry Qualification has been successfully launched.
- The individual District Land Registries, with encouragement from Headquarters, make contact with local practitioners and arrange courses and open days. These are all voluntary, however, and experience suggests that the less efficient practitioners rarely attend them.

With the coming of new legislation and e-conveyancing, the training programme will need to be well-planned, timely and comprehensive. It will be essential to ensure that all the groups concerned receive the education and training they need.

Although the needs of individual staff groups will differ, and those of practitioners will be different again, there will be important areas in common.

In these circumstances, there would seem a strong case for setting up a new *Education and Training Unit*. Headed by a new Director of Education and Training Services, the Unit would be responsible for developing a programme to meet the forthcoming needs, both for staff and for practitioners outside, and then for co-ordinating and, in some cases, delivering the programme.

The new Unit would need to work closely with the Task Forces proposed earlier for e-conveyancing and the new legislation. The Director would preferably, indeed, be a member of the Task Force.

With regard to Registry staff, the Director and the Unit would take direct responsibility for providing or facilitating courses and materials to equip staff to deal with the new legislation and with e-conveyancing in all its aspects. They would also review, prioritise, monitor and as necessary contribute to all other training in the Registry, including senior management and developmental training, the new Land Registry Qualification (LRQ) and operational training. As part of this, they would ensure that the new legislation and e-conveyancing reforms were properly reflected in all aspects of training. They would not, however, take over direct responsibility for providing operational training. That responsibility is better left, in my opinion, with the Director of Operations.

With regard to training for outside practitioners, the Unit would need in co-operation with the Customer Services department to orchestrate with the District Land Registries an effective national programme to help conveyancers, lenders, estate agents and others to adapt to the new legislation and to e-conveyancing in all its aspects. Some elements in the programme might be:

- One-day introductory courses
- Continuous professional development courses
- Making the LRQ course available to candidates outside the Registry
- Modules for inclusion in conveyancers' courses
- Optional courses in information systems for searches, registration and electronic settlements
- Explanatory booklets
- Website materials
- Publication of Land Registry Practice Notes.

The Land Registry would preferably arrange with the Regulators for conveyancers, whether the Law Society and the Council for Licensed Conveyancers or a new body on the lines sketched in Chapter 8, for attendance at an introductory course and subsequent CPD courses to be a requirement for continuing accreditation.

If, in the alternative, the Land Registry itself were to license or contract conveyancers for online access to the LR systems, such attendance at these courses could be a condition of contract.

The education and training programmes for staff and for practitioners outside would both need to be preceded by a significant period of planning and preparation,

development of course materials and training of trainers. There may be advantage in working with a private sector partner or partners.

The Registry will need to launch an early programme to assess the requirements for training and trainers. The number of staff needed may not be much (if any) greater than the number now engaged in training programmes. Compared with most organisations, the Registry already devotes a large amount of resources to staff education and training. The need for training in the new working methods of combined operations, small team working and computer mapping will diminish as staff become familiar with these new approaches. It will be important to re-focus training for the period concerned on the new legislation and on e-conveyancing, and what they will mean for the Registry's on-going work, rather than add to the existing programmes.

10.6 Publications Unit and market transparency

(a) Market transparency objectives

In accordance with the pillar 5 strategic objective quoted at the beginning of this Chapter, the Land Registry needs in my opinion to see the promotion with others of transparent property markets as one of its most important functions.

The importance of transparency in markets is now widely recognised and accepted. Without transparency, markets cannot function efficiently. Abuses multiply. Those with more knowledge are able to mislead those with less.

In the markets for land and property, transparency is less easily achieved than in most other markets. The products and services traded are less homogeneous. The transactions are less visible.

Transparency is also, however, even more important in these markets than in most. Land and property transactions matter tremendously to those who engage in them. For individuals, in particular, such transactions are usually by far the largest they ever make. But the scope for making bad mistakes, with or without encouragement from others, is very great.

It is the more important, therefore, that the Land Registry and the other bodies concerned should do all they can to bring transparency to these markets. That is why such an objective forms one of the seven pillars of the Registry's proposed strategic programme.

As the wording of the objective implies, transparent and well-functioning land, property and mortgage markets depend among other things on the way in which the various providers of services in the markets conduct their business. The Joint Property Market Charter discussed in Chapter 8, and the Forum associated with it, should have an important contribution to make in this connection.

Transparent land and property markets also depend critically on two other elements:

- availability on the Register of the key “*micro*” information about individual transactions (see Chapter 5), and
- regular publication of relevant, reliable and up to date “*macro*” information about transactions, prices, rents, areas and amounts in aggregate, with appropriate levels of disaggregation by region and district.

The “macro” information in particular is important, too, in relation to the development of national policies.

(b) Publication of macro information

The Land Registry has made a good beginning in this area by publishing quarterly information on house prices in England and Wales, including some regional analysis.

The Registry’s published material on house prices is based on more comprehensive data than the other national indices. It suffers at present, however, from two disadvantages.

- i. It lags behind the market by around 6 to 8 weeks on average. This reflects the average delay between exchange of contracts and registration of transfer.
- ii. It does not include any firmly based analysis by property type or floor area.

The new national processes for housing transactions in an e-world sketched in Chapter 8 should reduce or remove the delays between completion and registration.

In addition, joint collection of information by the Registry and the Valuation Office as suggested in section 5.5 should yield reliable information linking prices to property types and floor areas.

If and when these two advances have been made, the information jointly collected by the Land Registry and Valuation Office should provide the basis for publication of a high quality national Index of house prices (as discussed in Section 5.5).

It should also provide the basis for publication of invaluable disaggregated market information about prices of particular types and sizes of domestic property in particular localities.

In my opinion, the Registry and the other Government bodies concerned should set a firm objective to improve published data and transparency not just in the house buying and selling market but also in the other main property markets, including those for

- domestic property leasing
- domestic property rents
- commercial property sales
- commercial property leasing
- commercial property renting
- buying, selling and renting of agricultural and other land.

The proposed new processes for collection of information by the Registry and the Valuation Office should enable publication of valuable cross-linked information on prices, types, areas and locations in all these markets except the pure rental markets. Section 5.4 discussed the particular needs in the leasing markets. For the pure rental markets, other Departments such as the Department of Social Security would need to be in the lead.

It should be possible to publish information of great value to users on matters such as:

- what prices have recently been paid for domestic houses with floor areas of between 50 and 100 square metres in particular local postcode districts
- what prices have recently been paid for flats with specified ranges of floor area in particular local postcode districts
- what the average considerations per square metre, ground rents and service charges have been in recent domestic leasing transactions for 20, 21, 60, 99 and 999 year periods in particular local postcode districts
- what are the broad terms per square metre for leases of various commercial property types and periods
- how price levels, leasing terms and rents vary between regions and districts
- how all these variables have moved over time.

Information on the lines suggested should preferably be published every month, with an accompanying commentary, in accordance with the principles of best practice for publication of national statistics.

The Registry and the Valuation Office, as the major providers, would be well-placed to co-ordinate such a publication with other providers. But the Office of National Statistics or the DETR could alternatively play a co-ordinating role. As implied above, close co-operation between the Registry and the Valuation Office will be especially important.

With regard to the mortgages market, the Land Registry is in principle well placed to collect information on mortgage and second mortgage transactions, re-mortgaging, and the amount and terms of mortgage loans or ceilings at the time they are taken out. As noted in section 5.6, however, the DETR is already assembling much information on the mortgage markets. It will therefore be for consideration with DETR, the FSA and others concerned whether the Registry needs to expand its role in this area.

(c) To charge or not to charge

An issue which arises in all the areas discussed is whether the Registry should make such information available free, for example through its internet website, or charge for it.

In my opinion, there should be a presumption in favour of providing such information free, unless it is highly specialised. For the most part, it is national information and information on which the transparency of national markets depends. The costs of providing it are likely to be small once the initial systems have been set up.

This should not preclude, however, the possibility of providing more specialised information on a basis of full cost recovery where the Registry is able to do so without significant diversion of effort from its core tasks.

(d) Proposed Publications Unit

If the case for developing the publication of market statistics on broadly these lines is accepted, the Registry will need to establish a small Statistical Publications Unit under an experienced statistician. A joint Unit with the Valuation Office could also be considered.

The Unit's remit would be to deliver the strategy and projects discussed above, in the closest co-operation with other interested parties and other providers.

The Head of the Unit could also fulfil a useful role as champion of the case for deepening the coverage of quantitative information in individual Register titles.

(e) Inter-Departmental Steering Group

There would also seem a strong case for establishing an Inter-Departmental Steering Committee, or extending the role of the ONS's existing Committee, to provide guidance and advice on this important work in which many Departments have an interest.

The Committee would bring together representatives from each of the main Departments concerned. It would preferably meet from time to time in a wider format as well, with representatives of the main user groups.

The Committee could also have an informal reporting line to the Inter-Departmental Steering Committee on the National Property Markets suggested in Chapter 12.

10.7 Land Registry Advisory Services (LRAS)

In my opinion the Land Registry could do much to help practitioners and the public in England and Wales, and Governments in certain other countries, by developing a range of advisory services in areas where Registry staff have special expertise and experience not readily available elsewhere.

With this end in view, the Registry might consider setting up an Advisory Service, with a name such as Land Registry Advisory Services (LRAS). Within the LRAS, there would be a group of specialist Advisory Units.

The new Service would be in effect a subsidiary of the Land Registry. It would not form part of the Land Registry's core operations. It would be required to operate on a self-financing basis including a defined contribution to overheads.

Initially, the Registry could launch the service within present legislation as part of its on-going services. When the proposed new Land Registration Act takes effect, however, the LRAS would probably best be restructured as a wholly owned subsidiary company limited by guarantee. The advisory services would then be more visibly distinguished from the Registry's core activities and commercial disciplines would be reinforced.

A senior member of the LR staff would have full-time responsibility for oversight of the new Service and a remit to make a success of it.

But the Directors and staff of the individual specialist units would mainly be former Registry staff working part-time, with only a handful of existing staff. Some private sector staff or enterprises could be included or associated with the new Units as well.

An Advisory Service on these lines would offer many advantages, not least in terms of improving public services. It would:

- i. extend and deepen the range of valuable services the Registry can offer to the public, practitioners and other countries, including services which the Registry has been asked but unable to provide in the past
- ii. enable housebuyers who so wish to continue to do their own conveyancing in the e-conveyancing era
- iii. help the Registry to improve efficiency in its core activities by helping applicants to raise standards and reduce errors, especially where there are problems of mapping or unregistered titles
- iv. provide a means whereby retired Registry staff may continue to put their special skills and experience to good use for the benefit of owners and practitioners who might otherwise struggle
- v. provide valuable developmental opportunities and experience for a handful, at least, of serving Registry staff
- vi. enable the Registry to join private sector providers in valuable partnerships and joint ventures which would not otherwise have been practicable.

The Registry itself might also find it helpful from time to time to use staff on the LRAS's books to help with peak loading problems in core areas of Registry business, such as education and training.

There are certain potential disadvantages in launching an Advisory Service. It might divert the Registry's management and staff from core activities such as registration, information, the e-conveyancing reform and other reforms. It might lose money. It might appear to rely on cross-subsidies from fees for core services. It might involve unnecessary competition with private sector providers.

Setting up the Service in the way proposed should, however, enable the Registry to avoid these pitfalls:

- First, the Service would be a self-contained operation, responsibility for which would be largely devolved to one member of the Registry's senior management.
- Second, a Service which had minimal overheads and used mainly retired staff working part-time on a consultancy basis would have the flexibility to deal effectively with peaks and troughs in demand and so minimise the risks of financial losses.
- Third, the self-financing requirement would mean that people using the Land Registry's core services would not be expected to subsidise the advisory services.
- Fourth, the deliberate focus on areas where there is little private sector expertise or experience would limit the risks of conflict with private sector providers. Many of the customers would themselves be private sector providers who might welcome the availability of such services.

A further potential hazard is that dissatisfied customers might sue the LRAS for recovery of financial losses allegedly resulting from bad or misleading advice. Like any other advisory or consultancy organisation, however, LRAS could cover such risks through personal indemnity and staff fidelity insurance.

10.8 LRAS Specialist Units

The main specialist Units within the LRAS might be as follows:

- *An International Consultancy Unit.*
- *An Advisory Unit on specialist issues of registration and title* where the LR has a special expertise barely found in the private sector.
- *A Title plan advice and preparation service*, which might help to improve the quality problems of plans now submitted
- *An Advisory Unit for lay conveyancers*, to enable the layman who wishes to do his or her own conveyancing to do so in the e-age, and possibly
- *A Historical and Genealogical Research Service*, mostly if not entirely staffed by retired former LR working level staff.

On the assumption that these Units can be introduced within existing statutory powers (see above), a reasonable aim might be to launch

- the first three Units by January 2002, and
- the fourth and fifth units in January 2003.

In my opinion, each of the Units suggested would have a special and potentially invaluable role.

10.9 International Consultancy Unit

The International Consultancy Unit would provide expert advice and consultancy services to the Governments and Registries of other countries, mostly if not entirely within the framework of international development assistance programmes.

The Unit would not, of course, represent the Land Registry at international Governmental meetings. That task would remain with the core Land Registry.

Many countries have a special need for help in establishing robust systems of land ownership and registration.

With the collapse of communism, the Commonwealth of Independent States and the countries of the Former Soviet Union and Eastern Europe are clearly in this position.

Other countries, too, are keen to profit from the experience of countries like the UK, Canada and Australia in introducing electronic Registers and processes.

The Land Registries (or equivalent) in Canada, Australia, the Netherlands and the Scandinavian countries in particular have therefore been active in the past few years in helping these and other countries to develop their systems.

The Land Registry has actively supported and given practical assistance to the United Nations Economic Commission for Europe in its programme to develop guidance and to provide published policy advice on land registration for countries in transition. It has also demonstrated its systems to visitors from many countries.

In contrast with parallel Departments in the other countries mentioned, however, it has not been similarly active in a direct consultancy role. Yet the England and Wales model, based on register of title with general boundaries and state guarantees, may be especially suitable for some of these countries. The experience so far with electrification in England and Wales is likewise potentially of considerable interest.

In principle, therefore, there is likely to be some demand at least, though probably not a huge demand, for the services a Land Registry International Consultancy Unit might provide.

If the demand is to be identified and fulfilled, however, the Director of the Unit needs not only to have a good list of persons with the necessary skills and availability who are willing to be enlisted as required, but also to do the following things above all:

- to keep in close touch with the United Nations and International Aid Agencies who finance such technical assistance, notably the World Bank, the EU agencies, DFID and USAID,
- to monitor the contracts put out to tender by these and other organisations,

- to take the lead in tendering for and co-ordinating such projects, and / or
- to co-operate with others, such as the International Units of Ordnance Survey, the Civil Service College and CIPFA, in doing so.

The Ordnance Survey in particular has devoted significant resources to international consultancy projects. The proposed LRAS Unit would be well placed to join forces with the Ordnance Survey, where appropriate, in such projects.

The monitoring and co-ordinating work sketched above is a pre-requisite for success in this area. Without it, the potential will not be translated into action.

10.10 Advisory Unit on specialist issues of registration and title

There are certain specialist areas of registration where individual private practitioners (and indeed private practitioners generally) may have no experience of the type of transaction or problem involved or may find it difficult to assemble the relevant information.

A specialist Advisory Unit or network of former Land Registry lawyers and mapping experts could in principle supply much-needed help in such cases.

Examples of processes where the Unit might help are:

- conveyancing of properties currently unregistered (a rapidly dwindling stock)
- pre-registration vetting of draft registers
- problems and ambiguities in title plans or descriptions
- listing of constituent titles (especially in complex leasehold titles)
- closure of leasehold titles following forfeiture.

There would be some potential for conflict with the core Land Registry in relation to ongoing disputes. The LRAS Director would need to draw up well-considered guidelines on this and other matters.

10.11 Mapping advisory service

A Mapping Advisory Unit could help owners and practitioners:

- to improve the quality of draft title plans submitted to the Registry and
- to deal with problems arising on existing deed or title plans or descriptions.

The Unit could both provide advice on existing maps, plans and descriptions, and prepare new plans when requested. Both services could be invaluable.

This Unit would consist mainly of former Registry staff with expertise and experience in mapping.

Especially for new estates, draft title plans submitted by developers or their surveyors are often deficient or problematic. Such deficiencies sometimes lead to boundary problems between neighbours, and often cause delays in registration, which are tiresome for developers, new owners and the Registry alike.

As discussed in section 6.13, the LRAS Mapping Unit's services would be available for developers and others who want professional help in drawing up draft title plans before submitting them for advance approval by the core Registry's Estate Plan and External Boundary Approval services or for registration.

Existing Deed plans for unregistered estates and even some registered title plans may likewise raise significant problems of interpretation. Some examples of the problems that may arise are inexpertly drawn plans or draft plans such that:

- owners have to cross a neighbour's land in order to access their properties by car
- the boundary plans for adjacent plots overlap
- the wrong OS map has been used.

Here too the LRAS Unit could help owners and practitioners to sort out difficult problems.

10.12 Advisory Unit for lay conveyancers

The 1998 Consultation Paper, *Land Conveyancing for the Twenty First Century*, suggested that the proposed new systems for e-conveyancing should not exclude laymen from doing their own conveyancing if they so wish.

In electronic systems, however, especially where outside practitioners have to be regulated as a group and authenticated as individuals in relation to each transaction, it is far from straight forward to preserve a facility for individuals to do the job themselves without multiplying the risks of fraud, errors and software corruption.

If the proposal to retain the layman option is maintained, therefore, the Land Registry itself would seemingly have to provide a service to help laymen with the electronics of applying for registration and to ensure that their applications would not cause other problems.

In principle, these tasks could be added to the existing tasks of Land Registry staff dealing with applications.

In practice, it would seem wrong to ask the Registry staff responsible for receiving and dealing with applications to deal with this very different set of requirements in these cases. They should not be expected to act as consultants and umpires simultaneously.

The better course, in my opinion, would be to set up as part of the Land Registry Advisory Services (LRAS) a special self-financing Advisory Unit for Lay Conveyancers. This would need to be done in the closest co-operation with the Task Force on e-conveyancing.

The proposed Unit would need to be set up simultaneously with (and certainly no later than) the introduction of compulsory e-lodgement of applications for Register changes. It would differ in several respects from the other LRAS Units:

- First, lay-conveyancers would be *obliged* to use the services of this Unit unless they were able to use the services of a regulated conveyancer to execute the final stages.
- Second, the Unit might need to field more local representatives, perhaps in local authority or post office premises as well as District Land Registries, across the country.
- Third, the Unit might need to include more present Land Registry staff than the other Advisory Units.

The proposed Unit would need to carry out the Know Your Customer identity, bankruptcy and fraud checks that good conveyancers would otherwise have carried out.

Depending on the provisions in the new legislation, the Registry might also need to make available authorised persons to complete the transfers.

The alternative to setting up a Unit on these lines would be to drop the layman option and oblige all buyers and sellers of property to employ the services of a regulated conveyancer, at least for the final stage of lodging applications with the Registry.

10.13 Historical and Genealogical Research Service *

The Land Registry holds a very large volume of files relating to registered properties. The Registry records date from 1862 onwards, though registration did not begin to achieve wide coverage until a century later. The files also include Deeds and other documents and papers dating in some cases from much earlier.

Some of the documents on these files, such as deeds, formally belong to others (in practice the existing owners of the land in question).

Under existing law, Land Registry staff may consult the records. In practice they do so mainly at the time when the property concerned is first registered and the file is created or in cases of disputes as to title or boundaries.

Under existing law, again, the Registry appears to have considerable discretion in permitting access to records by others. In practice access is usually confined to owners of a property, who rarely wish to consult their records. From the Registry's point of view, this is convenient. For the most part, the files are stored and indexed in such a way that they can be accessed. But accessing them is a difficult and time-consuming task.

From the standpoint of family and property historians and genealogists, therefore, the Registry's past files tend to be largely inaccessible.

In my opinion, there must be a case for making the files rather more accessible to researchers. There should preferably be some facility, at least, for access. The files must contain information of interest to archivists, property and local historians, family historians and genealogists, especially where other sources of information have failed.

If the case in principle for making the files rather more accessible is accepted, the Chief Land Registrar's powers to make these records available for inspection by researchers would need to be checked. The proposed new Land Registration Bill might provide a convenient opportunity to redefine the powers if any such redefinition should be needed.

The practicalities are the more difficult issue. The Land Registry would need to consider what arrangements might realistically and acceptably be made for making files, or copies of files, available to those who wished to see them.

In considering such arrangements, it is necessary to bear in mind that demand would probably be limited and access difficult and expensive. The Registry could hardly allow members of the public to access the file stacks directly. A telephone enquiries line might be the best point of entry.

A possible way ahead would be to set up a Historical and Genealogical Research Unit within Land Registry Advisory Services, LRAS, to provide whatever service can be provided on a self-financing basis. January 2003 might be a suitable target date for this.

It would seem advisable, however, to discuss the issues and the practicalities thoroughly with other bodies with relevant experience, notably the Public Records Office, before reaching firm decisions. There may be scope for co-operation with other bodies in making a service available.

If the decision should be to set up a Unit within LRAS, it would be important here as elsewhere not to divert existing staff away from present operational priorities on to this new task. The staff for the Unit would preferably be, not present Registry staff, but former staff with experience of handling and copying documents in the Registry, working on a part-time basis in accordance with the level of demand. Other part-time staff could be recruited as well in case of need.

As with the other Advisory Units, the fees charged would need to be based on full cost recovery including a contribution to overheads. This would probably indicate quite a high level of fees compared with those that historians and genealogists generally expect to pay.

Whatever may be decided, the Registry needs to bear in mind the needs of future generations of researchers in deciding on its policies for storage of documents, old and new, and electronic records.

* I am grateful to Mr Robert J Smith and Mr Peter J Mayer for advice on this section.

11 GOVERNANCE: EXISTING STATUS AND ALTERNATIVES

11.1 Introduction

In accordance with the Cabinet Office guidance on reviews, this Chapter considers the existing status of the Land Registry and possible alternative structures for delivering Land Registration services. The discussion covers both the Land Registry's services as a whole and some of the major individual areas of business and processes.

11.2 Existing status

As discussed in Chapter 2, the Land Registry is a Government Department under the Lord Chancellor. The Chief Executive and Chief Land Registrar, who heads the Department, serves as Accounting Officer and is directly accountable to Parliament.

The Land Registry is also an Executive Agency and a Trading Fund. The Head of the Department is therefore the Chief Executive of an Executive Agency and Accounting Officer for the Trading Fund.

The Registry's status as an Executive Agency and Trading Fund as well as a Department has had the valuable effect of helping it to focus on customer service, efficiency and costs in much the same way as might be expected of the best private sector organisations.

11.3 Abolition

It is just about possible to contemplate abolishing the Land Registry and the services it provides.

The Registry could not simply walk away from its present responsibilities as Parliament has defined them. But the Government could in principle propose, and Parliament could in principle approve, legislation to wind up the national Land Register and return to a national system of land and property ownership based on Deeds kept by owners of land and property or their legal advisers and extensive private sector title insurance.

To abolish the Register and the Registry in this way would amount to a radical form of privatisation of the national system for land and property ownership. The resulting system would be similar to the system that prevailed before establishment of the Land Registry in 1862, without the title insurance.

In my opinion, abolition should be firmly rejected. It would be an act of extreme folly, both in itself and for any Government that attempted it.

As discussed in Chapter 4, the importance of a tried and trusted national system for land and property ownership, a system in which people have confidence, can hardly be exaggerated. Such a system is one of the foundations on which successful market economies are built.

Recent experience in the countries of the Former Soviet Union and Eastern Europe has demonstrated, if any demonstration were needed, how damaging the absence of public confidence in land and property ownership can be.

Experience across the globe has demonstrated, similarly, that effective registration systems, responsibly and impartially administered, hold the key to public confidence in land and property ownership.

In England and Wales, abolition of the registration system laboriously developed over the past 140 years would risk undermining confidence in land and property ownership and property and mortgage markets. It would replace security in land and property ownership with risks and uncertainty; simplicity with complexity; a cheap system with a vastly expensive one. To protect themselves against the new risks, owners of land and property and others with relevant interests would have to buy legal advice and title insurance at prices that would dwarf the present Land Registry charges. Even then, the public would not feel the same security it feels now. There would be a risk of grave and continuing damage to the national economy.

The change would, moreover, be hugely unpopular with professionals and in Parliament and the country.

11.4 Privatisation

It is possible to contemplate a less radical form of privatisation, not involving abolition of the Register. The Land Registry's main practical tasks would be entrusted to a private sector provider.

Such an arrangement could be seen either as privatisation or as provision of a concession (or strategic contracting out) to a private sector partner.

The main tasks to be privatised in this way, which occupy all except a handful of the Land Registry's present staff, would probably be:

- maintaining the Land Register and the Land Charges Register,
- developing the Land Register, including electronification,
- developing facilities for and introducing e-conveyancing,
- providing the necessary services to co-providers and customers, and probably
- implementing the guarantees and indemnities scheme.

For reasons discussed in the next section, the first four tasks hang together and could not readily or sensibly be separated. It would be difficult to contract any one of them out to a private enterprise without contracting the others as well to the same private enterprise.

The fifth task, implementation of guarantees and indemnities, is substantially for lawyers and could in principle be separated. In all aspects of Registry work, however, consequential for guarantees and indemnities have to be a key consideration. Removing this responsibility from those who work on the Register would therefore be hazardous. The likely result would be that the Register would be less carefully developed and managed and claims for indemnity would multiply.

On this model for privatisation, therefore, the Government would effectively launch most of the existing Land Registry as a single private sector monopoly.

In my opinion, privatisation on this model should likewise be firmly rejected. It would not quite, perhaps, be an act of extreme folly, like abolishing registration altogether. But it would still be an act of very considerable folly.

There could be certain benefits in privatising this, like other, public sector activities. Two of these are especially worth considering.

First, private sector *styles of management* might in principle facilitate improvements in certain areas. I would doubt, however, that there is in practice any great potential for gains of this kind from privatising the Land Registry. The Registry has probably harvested the main fruits of private sector management already. It has gone out of its way to develop private sector partners, benchmark its processes against best practice elsewhere, and totally re-engineer key processes with the help of modern technology.

A second potential benefit is that a privatised Registry might be willing to *invest* more resources up front in improving the Register and the technologies associated with it. Public sector institutions are sometimes prevented by central control regimes from spending the amounts that need to be spent if a good service is to be delivered.

Even here, however, it is far from certain that a privatised Registry would feel obliged to spend more in the areas where spending is most needed. The privatised Registry's willingness to invest would be directly related to expected short-term profits from the investment.

As discussed in a later Chapter, moreover, it should be possible to deal with any problems of under-investment in capital and development expenditure within the public sector framework.

On the negative side, the disadvantages in even this mode of privatisation would be many and serious. They can be grouped under four main headings.

First, the privatised Registry would be a *private sector monopoly*. As is well known, the problems with private sector monopolies are usually even more serious than with public sector monopolies.

To deal with these problems, a Government Department or Regulator would need to oversee the operations of the privatised Registry. In practice, a Government Department would probably be the right choice. For the Government would need to ensure that the privatised organisation fulfilled the Government's strategic policies for land and property ownership, conveyancing and registration (not a task for a Regulator), as well as preventing abuses such as lack of impartiality, excessive fee scales and unreasonably high returns to shareholder.

The Government Department concerned would have to put much effort into the tasks of oversight and regulation. It would need to develop policies and strategies for registration and conveyancing. Many aspects of the Registry's work, especially but

not only the development and guarantees and indemnities work, raise significant issues of policy or points of principle from which the Government could not easily stand back. The initial strategy and tasks would need to be meticulously defined in a protracted negotiation. On-going monitoring and regulation of the privatised operation would likewise be a heavy burden.

The Government would find it more difficult even so to develop national strategies for land and property registration, conveyancing and markets. Such strategies, and their consequences for registration, would need to be painstakingly negotiated with the privatised Registry. Each subsequent change would then be likely to require a major re-negotiation, as would fee and service levels. The extra effort and management time required would be considerable.

Second, some *loss of public confidence in the Land Registry's impartiality* would be unavoidable. Security of title and functioning property and mortgage markets depend on such confidence. The importance of visibly impartial registration systems, in which citizens, businesses, banks, central government and local government all have confidence, and indeed overseas investors, can hardly, therefore, be exaggerated.

It would be difficult for any privatised provider to be visibly impartial in the same way as public sector officials, especially in transactions involving the conflicting or competing interests between government, local authorities, companies and citizens or indeed in any cases requiring substantial commitments of staff time and effort.

The privatised Registry would be seen as having a new duty to shareholders which might qualify the previous totality of its commitment to provide a considered and impartial service to customers and co-providers. The Registry's reputation for impartiality has been a vital ingredient in the success of land registration in England and Wales.

One unfortunate consequence of reduced perceptions of impartiality is that the privatised Registry would not be able to fulfil the invaluable tasks it has traditionally fulfilled in helping informally to resolve disputes between neighbours and providing an expert adjudication service. Not only would the privatised organisation not be seen as sufficiently impartial but the shareholders might be expected to take exception to activities which generate no pecuniary profit. The Government would have therefore either to drop these invaluable activities or to find some alternative way of providing them. It is not easy to see how this might be achieved with anything like the standards and economy that can be achieved at present.

Third, privatisation of the Registry, even on this model, would require *major and highly contentious legislation and divert management's focus away from the Government's announced priorities.*

It is barely conceivable that the Government would be able to find room in its legislative programme *both* for a Land Registry Privatisation Bill *and* for another Bill to modernise the national systems for registration and conveyancing and pave the way for e-conveyancing. The latter task would risk being set back by many years.

The heavy tasks of setting up the new structures would be bound, similarly, to divert management effort at a critical time away from the Government's highly attractive e-conveyancing reforms and continuous improvement of the Registry's services.

There would be difficult policy issues to be resolved as well as structures to be set up. One such issue is who would own the Land Registry's mountain of documents and databank and what rights the privatised body would have to exploit such information commercially. Probably the Government would need to retain ownership even though the privatised Registry was responsible for management. This would however be an awkward compromise.

Finally, there would be significant risks of *disruption* to registration processes during the transitional period, higher *costs* and widespread *opposition*. The groups that represent private sector practitioners have made clear the strength of their opposition. Others would be likely to share their misgivings.

11.5 Agricultural Credits Department

There is just one area of the Land Registry's business, a very small one employing one full-time equivalent member of staff, where privatisation does seem to be worth considering. This is the Agricultural Credits Register held and maintained at Plymouth.

As discussed in Chapter 9, privatisation of the Agricultural Credits Register would be entirely possible and the case for privatisation is in principle quite strong.

The problem is, however, that the process of privatisation would require changes in the Agricultural Credits legislation and a substantial input of management time for little or no discernible gain.

If the Government had no other priorities for legislation, and the Land Registry had no other pressing priorities, there might be a case for examining the privatisation options further.

In practice, it is hard to believe that the Government would wish to give any priority to this in the foreseeable future.

11.6 Privatisation of individual District Land Registries

The Review of 1995 assessed at some length the option of privatising some or all of the individual District Land Registries.

An idea that found favour at the time, not least in relation to the Prison Service, was that privatisation of individual service delivery units could have a useful effect in mobilising private sector capital and demonstrating what alternative approaches to management could deliver. When the results of the demonstration became available, there would then (it was thought) be further options *either* to privatise further units *or* to spread the insights gained from the privatised units to other units remaining inside the public sector.

In principle, the privatisation of individual service delivery units might still offer enhanced access to capital and new insights in certain sectors and organisations.

For the Land Registry, however, this option is in my opinion barely practicable and should be firmly rejected. The question of access to capital is barely relevant (the Registry incurs very little capital expenditure).

The main considerations are:

- i. *Guarantees and indemnities.* The Chief Land Registrar would still be obliged to provide the statutory guarantees of title which come with registration and to pay indemnities in case of need. It would seem difficult, however, to provide such guarantees, and to accept such liabilities, in respect of the work of another organisation. To overcome this difficulty, the Registry would need to insist on the same rules and quality controls that it applies to its own District Registries. But this would largely destroy the point of the exercise.
- ii. *Disputes resolution.* Privatised District Registries, as commercial bodies, would hardly be able to play the same invaluable quasi-judicial role that Land Registry staff play in resolving disputes, especially boundary disputes and adverse possession cases.
- iii. *Data ownership and use.* As with the fuller privatisation model discussed above, there would be difficult issues over ownership and use of data, especially as the privatised District Registries would need access to the Register as a whole.
- iv. *Common systems and standards.* There would be similar dilemmas over obligations to use, and the terms of access to, common systems such as computer mapping and electronic lodgements, and the associated standards.
- v. *Multiplication of contracts.* Since 1995, the Registry has developed a considerable network of important contracts with private sector partners. Not the least important is the contract with Compaq for provision and upkeep of IT infrastructures including PCs. The prospect of renegotiating such contracts with up to 24 independent District Registries would be little short of a nightmare. Costs would be certain to rise as the Registry's purchasing power was diluted.
- vi. *Postponement of main objectives.* Privatisation of District Registries would require complex legislation. It would mean abandoning the Government's aspirations for a new Land Registration Act, the introduction of e-conveyancing and other priority reforms for the foreseeable future.

11.7 Strategic contracting out of core functions

A further option, in principle at least, would be to contract out one or more of the five core functions listed at the beginning of section 11.4 (to which we may now add the adjudication service), while retaining others:

1. maintaining the Land Register and the Land Charges Register,
2. developing the Land Register, including electronification,
3. developing facilities for and introducing e-conveyancing, with associated reforms,
4. providing services to co-providers and customers,
5. implementing the guarantees and indemnities scheme, and
6. providing an adjudication service.

In my opinion, however, contracting out core functions would likewise be a great mistake.

Taking the functions individually:

- The Land Registry could hardly contract out its central policy roles, such as strategic responsibility for *developing an e-Register and e-conveyancing* (functions 2 and 3), or for promoting with others world-class national systems for land and property ownership and transactions, while retaining the other functions. The whole point of contracting functions out is to enable the organisation to focus on its core functions, and above all its core policy functions.
- The responsibility for *giving guarantees of title and paying indemnities* (function 5) is a core function which is likewise unsuitable for contracting out. Guarantees of title and indemnities lie at the heart of land registration. It is the guarantee of title that makes land registration worthwhile.

The Registry could (and already does) buy in some outside legal expertise. For the most part, however, there is more legal expertise on land registration in the Land Registry than anywhere else. Contracting out more of the supporting legal work on guarantees and indemnities would be unlikely therefore to yield benefits and would certainly add greatly to costs.

Withdrawing guarantees of title altogether, and letting the private sector take over title insurance, would in theory be possible but would come close to abolishing land registration altogether (with the disadvantages discussed in section 11.3 above).

- The Land Registry could similarly not contract out the *adjudication service* (function 6) to a private enterprise. No private enterprise would have the necessary status, locus or visible impartiality to discharge such a function.
- The remaining two functions of *maintaining and updating the Register* and *providing services to customers* (functions 1 and 4) are in my opinion not separable. Most changes in the Register are the result of interface with customers.

Neither could the Register updating and customer service functions sensibly be placed in an organisation which did not also have responsibility for guarantees and indemnities. As discussed earlier, it would be asking for trouble to contract a separate organisation to register land without having to worry about the implications for guarantees and indemnities. To protect its indemnities fund, the Registry would need to insist that the contractor financed payments of indemnity resulting from his mistakes and took out ample insurance cover accordingly. This

would not only be expensive but would result in protracted disputes as to liability. Many of the contractor's mistakes, moreover, would not come to light until many years later, by which time the contractor might have ceased to exist.

The conclusion which emerges is that Land Registry's core functions hang closely together like particles in the atom. Contracting out individual core functions would threaten the whole enterprise without bringing any perceptible benefits. Like privatisation, it would also divert management from carrying out the important substantive agenda which Ministers have set.

11.8 Partnerships with the private sector for specific tasks

For all the reasons discussed, it seems clear that the Land Registry needs to remain in the public sector. Privatisation on either the more or the less radical model discussed above should both be decisively rejected, as should strategic contracting out of major elements in the Registry's core tasks.

Partnerships for specific tasks between the Land Registry and private sector firms, on the other hand, are a different matter. The Registry has entered many such partnerships already, especially in the areas of delivery of IT services, both internally and externally, and scanning of documents and title-plans. Such partnerships have generally proved fruitful. As discussed below, there is likely to be scope for more.

It cannot be too strongly emphasised that partnerships of this kind, which typically include elements of strategic contracting out and PFI, are quite different from contracting out core functions as a whole, as in the section 11.4 privatisation model, or individual core functions as discussed in sections 11.6 and 11.7. The partnerships have enabled the Registry to get important specific tasks done, some highly technical, others mundane, which the Registry could probably not have done as well itself. Such tasks, moreover, would seriously have diverted management effort from the Registry's core tasks if the Registry had tried to do them all in-house.

In contrast with the privatisation models discussed earlier in this Chapter, partnership arrangements with the private sector on these lines have a considerable potential to help the Land Registry to improve its services and carry out the Government's agenda for the longer term.

Some partnerships pose considerable challenges for management which Chapter 8 discusses further. But these challenges are far more tractable than those raised by the privatisation models.

Existing partnerships have taken various forms. The most important have been:

- *Scanning of title plans* to enable electronic accesses
- *Scanning of title deeds and supporting files* to enable electronic accesses
- *Scanning of Land Charges Registrations* to enable electronic accesses

- Contract with Compaq for supply and upkeep of the Registry's *distributed IT infrastructure of PCs and equipment*
- Contract with Global Crossing to provide the Security and Customer Support interface for the on-line *Direct Access Service*, now upgraded to *LR Direct*
- Contract by the Local Government Information House (LGIH) with MacDonald Dettwiler to supply and operate the hub for a *National Land Information Service*, NLIS, and Channel providers. The LR has played a significant role in this initiative
- Contracting out of *customised software for mapping*
- Partnership with ILEX / ITC for the new *Land Registry Qualification*
- Licensing of software houses and law stationers to produce and distribute (at cost or otherwise) *software to reproduce Land Registry forms* for use by the conveyancing community.

Looking ahead, the Registry is considering the scope for constructive private sector partnerships in several further areas:

- building and operation of systems to deliver *e-lodgement of applications*
- building and operation of systems for *electronic settlements*
- computerisation of the *Index Map*
- a possible call-off contract for help with *IT work at times of peak loading*.

12 GOVERNANCE: RELATIONS WITH THE LORD CHANCELLOR'S DEPARTMENT AND OTHERS

12.1 Introduction

This Chapter considers the working relationships between the Land Registry and the Lord Chancellor, the Lord Chancellor's Department, the central Departments, other Whitehall Departments and others outside, including local authorities and property market professionals.

Delivery of the strategic objectives discussed in earlier Chapters will depend on keeping these important relationships in good repair.

12.2 Ministerial responsibility: the Lord Chancellor

As discussed in Chapter 11, the Lord Chancellor has Ministerial responsibility for the Land Registry. In accordance with the Land Registration Act 1925, as amended, he appoints the Chief Land Registrar and the Solicitor. If the proposal in Chapter 10 is accepted, he would appoint the Chief Adjudicator as well.

In an international perspective, Ministerial responsibility for Departments of Land Title or Administration appears fairly evenly divided between Ministers of Justice and other Ministers such as Ministers of the Environment or Finance. The pie chart at Box 12.1 illustrates the point for the countries of the Economic Commission for Europe.

As the divided international practice indicates, there are good arguments in favour of both models:

- In favour of the Minister of Justice model, land registration needs to be administered in a visibly impartial and quasi-judicial way, including quasi-judicial facilities for resolving disputes. It also impacts importantly on the law of land and property. In addition, the practitioners who advise on conveyancing and registration are mostly solicitors. All these features fit well with oversight by a Minister of Justice.
- In favour of the Environment Minister model, land registration and the way it is conducted have a major impact on a country's land and property markets, and not least on housing and commercial property transactions. Environment Ministries with their general responsibilities for housing and property typically have a close interest in these markets.

In my opinion, there is no need to contemplate re-allocating Ministerial responsibility for the Land Registry. Under the suzerainty of successive Lord Chancellors, land registration in England and Wales has been a success story. All recent Lord Chancellors have taken a close interest in it.

The Land Registry does need however, in my opinion, to ensure that it pursues the objectives that an Environment Minister might emphasise as assiduously as those that a Justice Minister might emphasise.

Consistently with this, earlier Chapters have suggested that the Land Registry should enlarge its strategic objectives so as specifically to include the promotion with others of

- i. transparent markets in land and property, and
- ii. world-class national systems for land and property transactions.

Later sections of the present Chapter, similarly, will emphasise the importance of continuing and deepened co-operation between the Land Registry and other Departments, not just the Lord Chancellor's Department but also DETR, Ordnance Survey, the Valuation Office, ONS and others.

12.3 Relations with Lord Chancellor's Department

Although the Land Registry is one of the Lord Chancellor's Departments, the Lord Chancellor himself, with his Ministerial team and most of his senior officials, is based at the Lord Chancellor's Department. The Lord Chancellor's Department is, in effect, the Lord Chancellor's *principal* Department.

As with other Ministers in charge of several Departments, successive Lord Chancellors have been accustomed to ask officials of their principal Department to advise them on certain aspects of the affairs of the other Departments for which they are responsible. These officials, in turn, have come to accept that they have a responsibility to be proactive in advising the Lord Chancellor, if and when circumstances demand, and not merely reactive.

In my opinion it is entirely proper, and indeed unavoidable, that Lord Chancellors should seek and receive advice in this way from officials of the principal Department and that the officials concerned should discharge the role described.

In different Government systems where Ministers are surrounded by a "*Cabinet*" of personal advisers, the "*Cabinet*" advisers may be best placed to discharge such a role. In the UK system, on the other hand, officials of the principal Department are clearly best placed to do so.

The relationship between the officials concerned in the principal Department, in this case the Lord Chancellor's Department, and the Minister's other Department or Departments, in this case the Land Registry, is an important one. If the officials of the principal Department know nothing about the affairs of the other Department, they will not be able to give sensible advice to the Minister. If on the other hand they constantly interfere in the business of the other Department, or adopt an adversarial role, that will be a recipe for trouble.

In practice, the relationship between the Lord Chancellor's Department and the Registry seems to have worked, and to be working, well. This is a healthy state of affairs. It is important that it should continue.

The Registry's Agency Framework Document of January 1996, Chapter 4, includes a useful statement of the respective roles of the Lord Chancellor, the Chief Land Registrar and, by implication, the Lord Chancellor's Department.

With regard to the role of the Lord Chancellor's Department (LCD), the main points are:

- i. the Registry's relationship with LCD shall be one of "close and regular liaison" (paragraph 4.10);
- ii. LCD as well as the Registry itself shall advise and assist the Lord Chancellor in setting and monitoring the Registry's strategic, financial and performance objectives (paragraph 4.6);
- iii. LCD is the principal source of advice to the Lord Chancellor on
 - property law (while drawing on the Registry's particular expertise), and
 - discharging his responsibilities for agreeing the Registry's Corporate and Business Plans(paragraphs 4.10 to 4.12);
- iv. LCD's Director General of Policy supported by the Agency Monitoring Unit monitors the Land Registry's performance on the Lord Chancellor's behalf (paragraph 4.13).

Box 12.2 reproduces the relevant sections of text from the Framework Document.

In practice, the Lord Chancellor's Department will tend to have some involvement in helping the Lord Chancellor in the following areas as well not explicitly mentioned in the Framework Document:

- helping him to make the two (potentially three) senior appointments at the Registry, and
- participating in reviews of the Registry such as the present review.

There is, however, one important respect in which the Registry's Framework Document (in common, I suspect, with many other Framework Documents) seems deficient.

It has little or nothing to say about LCD's role in helping the Registry to be successful and to get things done, including advice on the wider Government and policy context.

Perhaps the point was thought too obvious to be worth mentioning. In my opinion, however, it is better to mention the most important points, even if they do seem obvious.

As a practical matter, the two Departments need in my opinion to work together as partners in an enterprise. They need to keep their relationship in good repair. They need to continue and deepen the habit of constructive co-operation and proactive openness based on mutual respect.

On the Registry's side this means taking the initiative in having proactive and open discussion with LCD officials on all matters of real importance, especially its

strategies and plans, and the rationale for them, and matters which will later come before the Lord Chancellor. It also means avoiding surprises.

On the LCD side, it means developing and maintaining a similarly constructive habit of partnership, mutual help and openness. It means emphasising the role, noted above, to help the Registry to be successful and to play a full part in Whitehall. It means scrupulously avoiding any temptation to usurp the Registry's strategic or policy role or to speak on behalf of the Registry where the Registry would better speak for itself.

The Registry has much expertise in matters of policy as well as delivery as a result of its involvement in providing land registration services. The LCD is very sensibly not staffed to duplicate such expertise.

12.4 Central Departments

The Registry's relationship with central Departments, though generally very good, has raised more issues for consideration than the relationship with LCD. By central Departments we mean the Treasury and the Cabinet Office.

For many years now, there has been a proliferation of overlapping central initiatives with which Departments generally, and particularly those with responsibilities for delivering services, have been expected to comply. For the Registry, the situation has become so serious that a member of staff has been allocated full-time to tracking and responding to such initiatives.

The demands on senior management time from such initiatives have inevitably reduced the time that senior managers have to attend to the things that matter most such as developing the right policies and strategies.

Some of the initiatives have apparently involved increasing the freedoms that Departments have to manage their own affairs. On further examination, however, it turns out that there are often further initiatives, well-intentioned in themselves, that constrain the ways in which the freedoms may be exercised to the point where they are hardly freedoms at all.

Some examples may help to illustrate the point.

- Within the field of Departmental reviews, the Quinquennial Review initiative seems to overlap with the Better Quality Services initiative.
- In the field of pay and grading, the central departments replaced centrally negotiated agreements with delegated pay and grading. Immense amounts of senior management time have been devoted to this throughout central government. But further central initiatives now require Government bodies to introduce performance pay in accordance with certain principles and parameters which may not help the organisation concerned.
- In the field of expenditure, resource budgeting and accounting have added to the complexities for trading funds, which already use using accruals accounting.

Meanwhile, a debate between the Registry and the Treasury over financing digitisation of the Index map delayed this project for three years.

Later Chapters discuss the second and third points further.

As a general matter, the Registry is not in a position to solve such problems. But the central Departments do need in my opinion to tackle them, in consultation with other Departments. Initiatives which are individually well-intentioned may be damaging in combination.

12.5 Inter-Departmental machinery

There is a clear need, in my opinion, for a coherent national strategy for the national land, property and mortgage markets and transaction systems. Such a strategy barely exists at the moment. Instead there is a mixture of partial strategies and initiatives and lacunas where there is no discernible strategy.

The main reason for this problem is, I suspect, the number of players involved and the absence of any fully adequate machinery for co-ordination.

Many Departments and other bodies are concerned in one way or another with the land, housing and property markets, the national processes for buying, selling, leasing and mortgaging properties, and registration of ownership, leases and mortgages. The list includes:

- LCD, who have responsibilities for land and property law as well as for advising the Lord Chancellor on his relations with the Land Registry, and who act as sponsor Department for solicitors and licensed conveyancers
- DETR, who have responsibilities for national housing and property policies generally, including local authority and housing association housing, commercial property, land use and planning permission. DETR also advise their Minister on relations with Ordnance Survey and act as sponsors for architects and surveyors
- DTI, who act with OFT as sponsor Department for Estate Agents and oversee the Insolvency Service Agency, which uses the facilities of the Land Registry's Land Charges Department to provide the national bankruptcy index
- The Inland Revenue's Stamp Office, who collect large amounts of tax in stamp duty on housing and property transactions
- The Inland Revenue's Valuation Office Agency, which assesses rental values of commercial properties for purposes of business rates and housing capital values for the purposes of Council Tax as well as making valuations for compulsory purchase orders, Land Registry indemnities and other public sector requirements
- The Land Registry, who provide state guarantees of ownership and long leases of registered land and record owners, tenants, charges, covenants, rights of way, notices and mortgages

- The Ordnance Survey, which acts as the national mapping service and one of the national addressing services and on which the Land Registry depends heavily
- The Financial Services Authority, now increasingly involved in the regulation of mortgage lenders (though not yet mortgage brokers)
- Local authorities, who enable or provide subsidised housing, use property as a basis for their main tax receipts, take charges on properties, conduct planning applications, maintain lists of addresses and receive requests for pre-purchase searches by intending buyers of properties
- The Office of National Statistics, who are interested in ensuring good national data on land, property and housing.

The need for proper machinery to co-ordinate the activities of so many players could not be clearer. Until recently, however, such machinery did not really exist and it arguably does not quite exist even now.

As implied earlier, Departments have tended to launch separate initiatives. Well-intentioned as these have been, they would better have formed part of a wider strategy.

Other much-needed initiatives, especially in areas requiring co-operation between Government bodies or between these and outside bodies, have not been launched at all. Government in this area has not, in short, been effectively joined up.

Three particular areas, already discussed in earlier Chapters, where co-ordination within the framework of a coherent national strategy seems especially to be needed are:

- the Seller's Pack & e-conveyancing initiatives,
- the contracting of the National Land Information Service, NLIS, and the National Land and Property Gazetteer, NLPG, and
- promoting transparency of the national land and property markets.

At Ministerial level, a Group of Ministers of State from DETR, LCD and DTI has helpfully led work on the Seller's Pack initiative for the "front end" of house buying and selling transactions.

To the best of my knowledge, however, there has been no Cabinet Office Committee machinery at Ministerial level to provide strategic focus and co-ordination in the wider area of a coherent national strategy for the national land, property and mortgage markets and transaction systems.

In my opinion, some such machinery could be invaluable. The Ministerial body concerned might also meet outside stakeholders from time to time, possibly at the Property Market Charter Forum suggested in Chapter 8.

At the official level, there is similarly no machinery for providing strategic focus and co-ordination across the wider area.

There are, however, two committees (or groups of committees) that cover part of the area.

- First there is an “Advisory Group”, chaired by Michael Gahagan of DETR, which reports to the Ministerial Group on the Government’s “Seller’s Pack” initiative. The Group includes DETR, DTI, OFT and LCD representatives, together with representatives of the main “stakeholders”, who are seen as being the Land Registry, the Council of Mortgage Lenders, the Law Society, the Royal Institution of Chartered Surveyors, the National Association of Estate Agents and the Consumers Association. Supporting the Advisory Group are sub-groups on searches, housing condition reports, certification and accreditation of surveyors for these reports and e-conveyancing (the last chaired by an LCD official but not now active in practice).
- Second, there is an Inter-Departmental Steering Group on e-conveyancing, chaired by Joan MacNaughton of LCD, and including representatives of DETR, the Land Registry, the Law Commission, the Inland Revenue’s Stamp Office and Valuation Office Agency, the Ordnance Survey, HM Treasury, DTI, and the Cabinet Office. The Steering Group intends to meet from time to time in a wider forum with representatives from the other main stakeholder groups in the private sector.

The second of these Groups met for the first time in January of this year. It was an early outcome from the present review. The Group will oversee the work of the Land Registry’s Task Force on e-conveyancing, set up at the same time and likewise an early outcome from the present review. The Group’s terms of reference are at Box 12.3.

These two Groups, between them, will do much to provide co-ordination along the lines discussed earlier.

In my opinion, however, it would be better still that there should in due time be *one* Group with a wider remit. The new Group might be called a Steering Committee on Strategy for the National Property Markets. The wider remit might comprise:

- (a) a general remit to oversee and advise Ministers on the wider strategy for the national land, property and mortgage markets, property ownership and transaction systems, and
- (b) a particular remit to co-ordinate all present and future initiatives in this area.

A remit along these lines is at Box 12.4.

A Group with such a wider remit would be better placed than the existing Groups are

- to promote a Joint Property Market Charter along the lines sketched in Chapter 8

- to consider major policy issues arising from Land Registration Bill and DETR legislation
- to co-ordinate the Seller's Pack with e-conveyancing and in particular to work up an electronic interpretation for the searches element (such as providing the Title number where up to date electronic searches could be immediately obtained)
- to ensure that the Government bodies concerned co-ordinate their activities and take effective joint action in relation to contracting one-stop searches through NLIS and establishing NLPG, and
- to ensure that the bodies concerned pursue other important initiatives that may be needed such as bringing transparency to the national land, property and mortgage markets (see Chapter 10).

Departments and other bodies should all be represented at a senior level on the proposed Group. The Chairman could come from DETR, LCD or conceivably the Cabinet Office. To share the load, and to underline the sense of partnership, officials from different Departments could Chair the meetings of the core Group and the wider forum with outside stakeholders suggested below.

12.6 Co-ordination with outside professional groups

The Steering Group on Strategy for the National Property Markets should preferably hold meetings from time to time, perhaps two or three times a year, in a *wider format* with representatives of *other stakeholders*. The DETR's Advisory Group for the Seller's Pack might possibly be developed to take on this role.

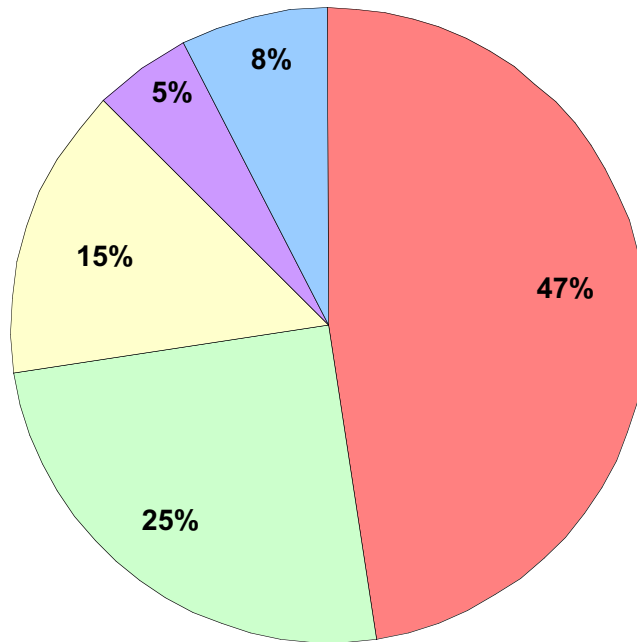
This wider forum would offer a convenient framework for consulting and co-operating at a *senior* level with all the main outside stakeholders, such as:

- the Law Society
- the Council for Licensed Conveyancers
- the RICS
- the CML
- the National Association of Estate Agents
- the Consumers Association
- the Local Authority Associations.

As noted above, there may be advantage in having a wider *Ministerial Forum* as well in which Ministers would meet representatives of the main stakeholders. The Joint Property Market Charter suggested in Chapter 8 might provide an attractive context for this.

BOX 12.1
MINISTRIES RESPONSIBLE FOR LAND REGISTRATION

Countries of the Economic Commission For Europe
(United Nations ECE Study - June 2000)



- Justice
- Environment/Agriculture/Lands
- Finance
- Interior/Home
- Council of Ministers/Others

BOX 12.2
EXTRACTS FROM THE LAND REGISTRY'S AGENCY FRAMEWORK
DOCUMENT, JANUARY 1996

- 4.6 In addition to his overall Ministerial responsibility for the Registry, the Lord Chancellor, with the advice and assistance of the Lord Chancellor's Department and the Land Registry, determines the financial and other performance targets set out in the Registry's Corporate and Business Plans. The Lord Chancellor:
- sets and reviews the strategic objectives;
 - sets long and short term financial objectives and other performance targets;
 - sets the Registry's fees, in accordance with the relevant statutory provisions;
 - approves the Registry's submission to the Treasury under the Public Expenditure Survey;
 - monitors the achievement of targets;
 - appoints and approves the conditions of service of the Chief Executive [and now the Solicitor];
 - approves any future revisions to this Framework Document.
- ////
- 4.10 The Lord Chancellor's Department provides the principal source of advice to the Lord Chancellor in relation to property law and in overseeing the corporate planning process of his departments. The Registry's relationship with LCD is one of close and regular liaison.
- 4.11 In the case of law relating to property interests, the Lord Chancellor's Department works closely with the Land Registry to ensure that full benefit is taken of its experience and expertise in registered conveyancing.
- 4.12 In the case of the corporate planning process, the Lord Chancellor's Department assists the Lord Chancellor in discharging his responsibilities for agreeing the Registry's Corporate and Business Plans.
- 4.13 The Lord Chancellor's Director General of Policy supported by the Agency Monitoring Unit monitors the Land Registry's performance on the Lord Chancellor's behalf.

BOX 12.3
STEERING COMMITTEE ON E-CONVEYANCING AND REGISTRATION

TERMS OF REFERENCE

- i. identify and assess opportunities for improving the conveyancing process, including any opportunities that arise because of separate Government or commercial initiatives, and (where justified) factor these into the programme of work;
- ii. identify and take account of other potential links to, or impacts from, other Government and EU initiatives;
- iii. assess the legislative implications of these links and opportunities;
- iv. ensure that the plans for the separate elements of the programme are sufficiently robust, that the necessary resources are in place, and that all significant risks and contingencies are identified and taken into account (including prospects for legislation);
- v. identify the inter-dependencies between the elements, and ensure that their phasing maximises the potential benefits (including delivering benefits earlier), while minimising the risks which slippage on any element poses for delivery of the whole programme;
- vi. monitor progress on the programme as a whole, with a view to identifying threats and opportunities as they arise, and taking the necessary action to deliver the programme;
- vii. oversee arrangements for frequent consultation with the main stakeholders in the conveyancing process or their representatives; and
- viii. produce an overall handling strategy for Ministers.

BOX 12.4
STEERING COMMITTEE ON STRATEGY FOR THE NATIONAL PROPERTY
MARKETS

POSSIBLE TERMS OF REFERENCE

- To provide timely and co-ordinated advice to Ministers on promoting a coherent national strategy for the national land, property and mortgage markets and transaction and registration systems
- To monitor existing developments in all these areas
- To oversee and co-ordinate as necessary Government Departments' work on development of the law in these areas, including any relevant LCD, DETR and Land Registry legislation
- To co-ordinate official work on existing initiatives, including the Seller's pack, one-stop searches through NLIS, coverage and electronification of the Register, an e-Register, and e-conveyancing
- As part of this, to oversee the work of the Seller's Pack teams and the Task Force on e-Conveyancing
- To identify and pursue any future initiatives which may be needed, such as transparent property markets and a Joint Property Market Charter
- To arrange regular meetings two or three times a year for consultation with the main private sector stakeholders

13 GOVERNANCE: INTERNAL MANAGEMENT STRUCTURES AND BENCHMARKING

13.1 Overview

The organisation chart at Box 13.1 shows the Land Registry's present management structure. For the most part, the structure seems to work well.

The possible new organisation chart at Box 13.2 shows a slightly revised structure, adapted to take account of

- the proposals for new posts discussed in earlier Chapters
- some other suggestions for strengthening the structure
- a slightly revised Board and Committee structure.

The three sections which follow comment briefly on the suggested changes and the reasons for them.

The word "suggested" requires special emphasis. The Chief Land Registrar and his colleagues on the Registry's Board will decide on any new structures after discussion with those affected. The BDICT Committee of senior officials below Board level is due to offer thoughts on its own future role in time for discussion at the Board's April meeting.

13.2 Main suggestions from earlier Chapters

The possible new organisation chart incorporates seven main suggestions for new posts emanating from earlier Chapters:

- (a) An Independent Adjudicator, working part-time, supported by a Deputy Adjudicator and a small unit, still within the Land Registry for purposes of pay, rations and proximity but otherwise independent of the rest of the Registry (Chapter 10)
- (b) A Land Registration Bill Task Force, Bill Team and Implementation Team, all in the Solicitor's section (Chapter 4)
- (c) An e-Conveyancing Task Force, headed by a Task Force Leader who reports to the Deputy Chief Executive and a General Counsel who reports to the Solicitor (Chapter 8)
- (d) A new unit working alongside or as part of the e-Conveyancing Task Force with responsibility for advising the Deputy Chief Executive on NLIS, NLPG and LR Direct (Chapter 7)
- (e) A new Education and Training Director, reporting to the Deputy Chief Executive and directly overseeing the programme of education and training for the new Bill and e-conveyancing together with general management and developmental training (Chapter 10)
- (f) A new Director of Land Registry Advisory Services, LRAS, reporting to the Deputy Chief Executive (Chapter 10)

- (g) A new Head of Statistical Services and a small supporting unit with responsibility for developing the Registry's statistical services in conjunction with the Valuation Office, DETR, ONS and others and for providing statistical support as necessary to the rest of the Registry (Chapter 10).

In my opinion, the Registry should set a firm target not to increase the present total number of central staff. The new posts and units should be accommodated without any net addition to central staff. There should be scope to achieve this with the help of reductions in the personnel divisions (see Chapter 18).

13.3 Other suggestions for strengthening the management structure

The suggested new chart includes significant changes in five or six further areas, all designed to strengthen management's focus on the tasks that lie ahead:

- i. The *Deputy Chief Executive* (DCEO) and Director of Business Development would focus on developing the business and carrying it forward rather than acting as line-manager for the Finance, Personnel and IT Directors. These three Directors, however, and the Strategy Director (see below) would all have an additional reporting line to him and he would Chair the Business Development Committee of senior staff below Board level.
- ii. The *Finance Director* would serve as Principal Finance Officer (PFO). She would in principle report directly to the Chief Land Registrar, who is the Accounting Officer, but would have an additional reporting line to the DCEO in his role as chief co-ordinator of the Registry's business development.
- iii. The *Personnel Director*, similarly, would serve as Principal Establishment Officer (PEO) and as such would be accountable to the Chief Land Registrar while retaining an additional reporting line to the DCEO.
- iv. The *ICT Director* would likewise need to report frequently to the Chief Land Registrar but would have an additional reporting line to the DCEO in his role as chief co-ordinator of the Registry's business development. The holder of this post might also assume responsibility for telephony.
- v. A new *Strategy Director* post would subsume the existing Director of Communications post and take on added responsibilities for long term strategy and planning, including strategy for the next ten years, follow-up to the present Review and development of statistical services. Like the Finance, Personnel and ICT Directors, the Strategy Director would report directly to the Chief Land Registrar but would have an additional reporting line to the DCEO in his role as chief co-ordinator of the Registry's business development.
- vi. The *Strategy Unit* itself would be expanded slightly from the division of the present Director of Communications to include two members of staff, possibly seconded from elsewhere, with experience of policy advice, preparing papers for Ministers and Inter-Departmental Committees, and getting things done in Whitehall. One of the seconded staff would help the e-Conveyancing Task Force in these tasks and might alternatively sit within the Task Force. The other might play a role in servicing the Land Registry Board and the Business Development Committee (see below). The proposed new Statistical Services unit would sit alongside the central unit.

13.4 Land Registry Board and Senior Committees

The Registry's Board and senior supporting committees would continue to function much as now but with the following changes:

- i. The present Board would be expanded to include one further Non-Executive Director
- ii. The Finance, Personnel, ICT and Strategy Directors would all be Associate Board members and would normally attend Board meetings where their areas of business were under discussion
- iii. The DCEO, with his newly focused responsibilities for business development, would Chair a Business Development Committee of senior officials below the Board and would act as the main link between the Board and the Committee. The Committee would be similar to, and replace, the present BDICT.
- iv. The new Task Forces on the Bill and e-conveyancing would meet as necessary under the Chairmanship of the Solicitor and the DCEO respectively.

The Members of the Business Development Committee would be:

- DCEO
- ICT Director
- Personnel Director
- Finance Director
- Strategy Director
- Practice Director
- Facilities Director
- Mapping Director
- Service Development Director
- LR Bill Task Force leader
- e-Conveyancing Task Force leader
- General Counsel to the e-Conveyancing Task Force
- Education and Training Director
- LRAS Director.

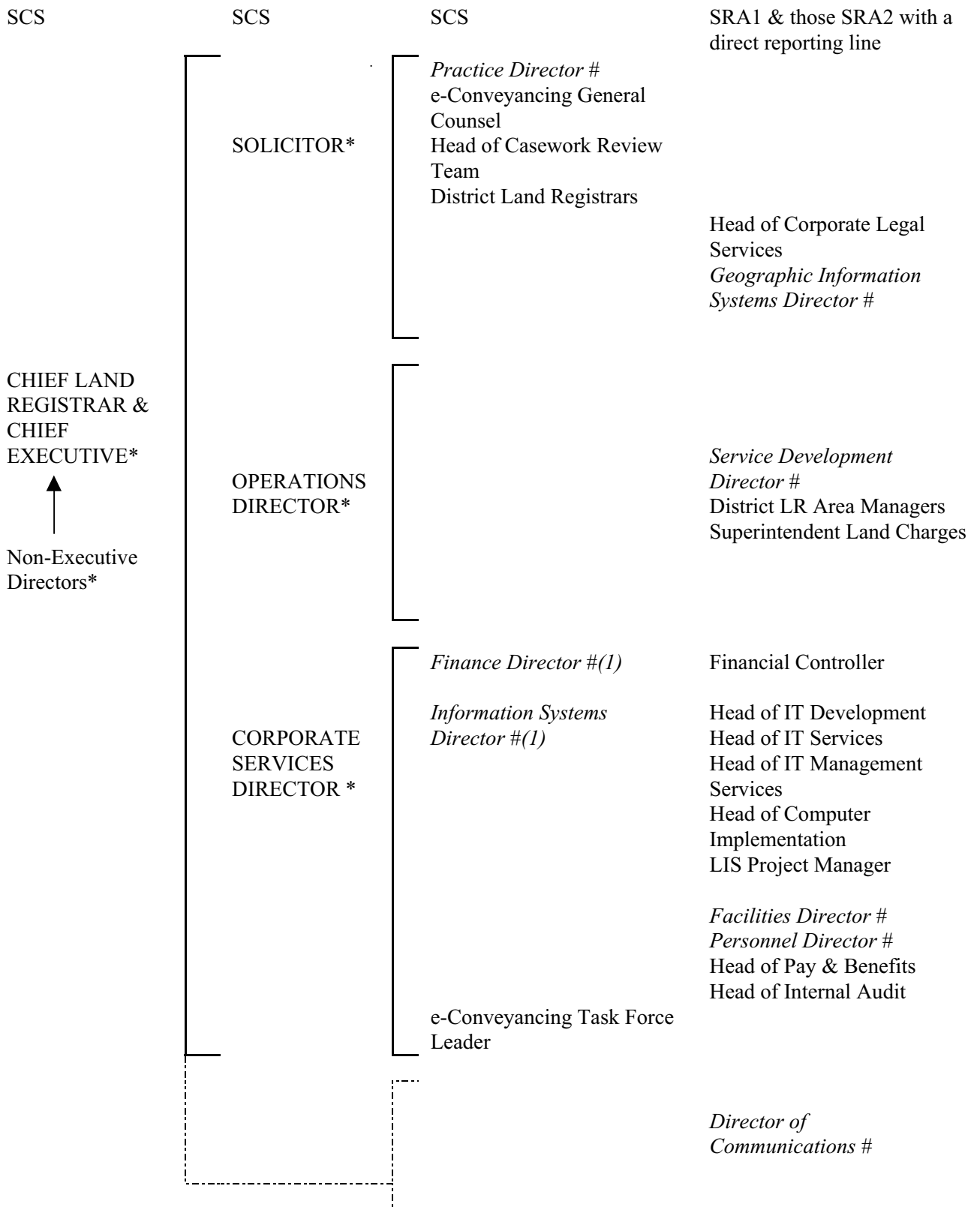
13.5 Benchmarking

Especially in the areas of Operations and ICT, the Registry has derived much benefit from benchmarking its activities against best practice outside.

In my opinion the Registry should explore the possibility of benchmarking itself informally as a whole against comparable organisations in two or three other countries.

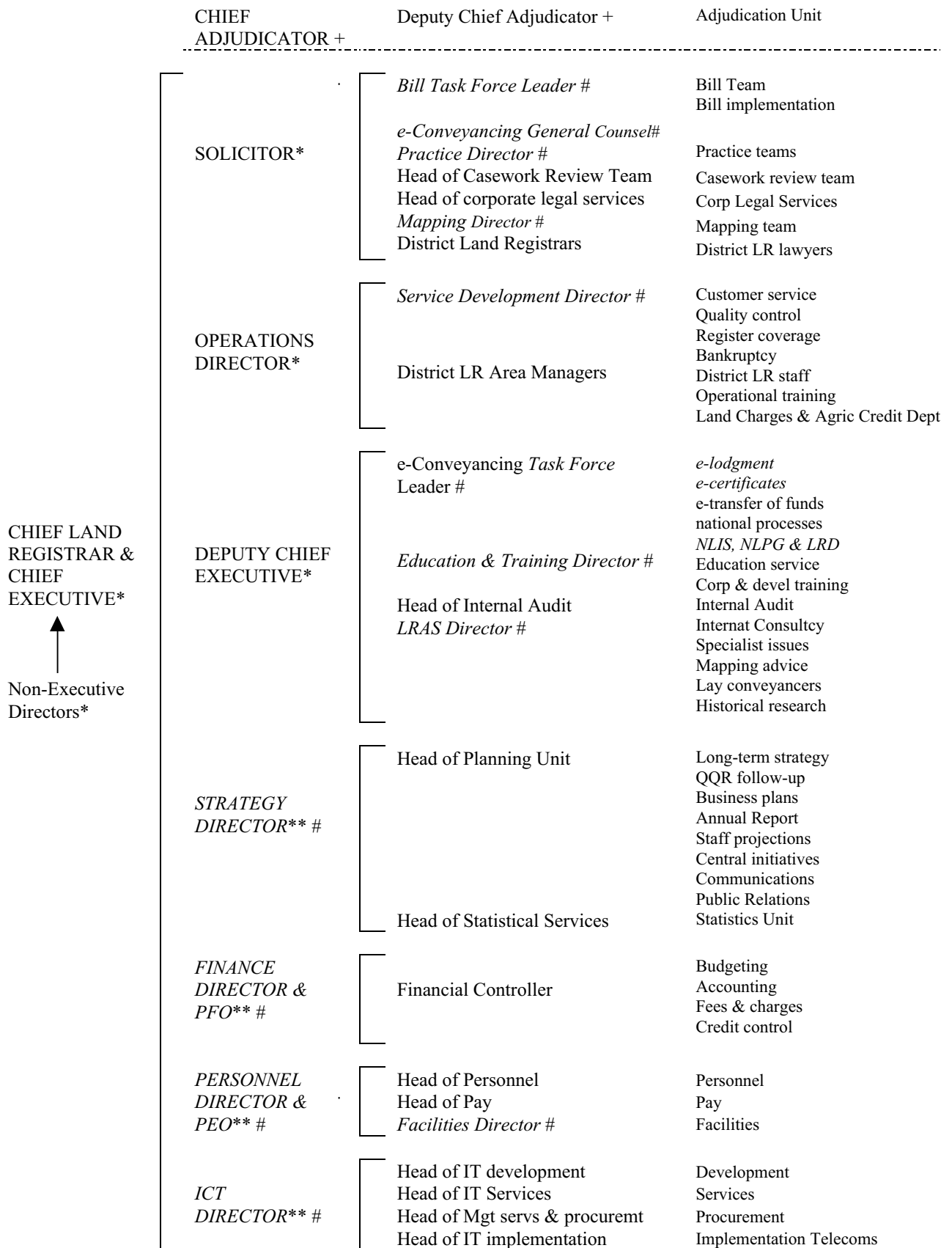
In addition, all the Registry's main individual divisions should benchmark themselves on a continuing basis against comparable departments representing best practice outside.

BOX 13.1
 HM LAND REGISTRY: PRESENT ORGANISATION CHART



* LR BOARD MEMBERS
 # Member of Business Development & Information Communication and Technology Group (BDICT)
 #(1) Co-Chairs of BDICT

BOX 13.2
HM LAND REGISTRY: POSSIBLE NEW ORGANISATION CHART



* LR BOARD MEMBERS
 ** ASSOCIATE LR BOARD MEMBER, WITH ADDITIONAL REPORTING LINE TO DEPUTY CHIEF EXECUTIVE
 # Member of Business Development Committee, chaired by Deputy Chief Executive
 + Part-time

14 GOVERNANCE: PRIVATE SECTOR PARTNERSHIPS

14.1 Introduction

As discussed in earlier Chapters, the Registry has already entered several important partnerships with private sector companies. More will probably be arranged in the years ahead.

The Registry has not so far, however, been well-placed to co-operate with other bodies in jointly contracting such partnerships. This has already been a disadvantage and will become more so.

This Chapter discusses these matters in turn.

14.2 Existing partnerships

The Registry has concluded major partnership contracts with the private sector suppliers listed in section 11.8:

Lason:	scanning of title plans
Lason:	scanning of files referred to in the Register
Dicon:	scanning of Land Charges Department's records
Compaq:	supply and upkeep of the Registry's distributed IT infrastructure , including local area networks, wide area networks, Servers, PCs and equipment
Global Crossing:	LR Direct
Tenet	Customised software for computer mapping
Various	Licensing of software houses and law stationers to produce and distribute software for reproducing Registry forms for use by conveyancers
Ilex Tutorial College	Joint provision of Land Registry Qualification course.

As the list indicates, the partnerships so far have mainly been concerned with information technology and scanning but also include a significant partnership on education.

All the partnerships were negotiated recently. With the exception of the title-scanning project, now completed, all are on-going. It is therefore rather early to judge how successful they have been. For the most part, however, they have begun well.

The success achieved so far probably reflects, among other things, the Registry's decision, very sensible in my view, to keep a strong capability in-house to design, assess and contract software solutions and delivery of information services.

The Registry has also gone to considerable pains to negotiate the partnership agreements carefully and to manage them subsequently.

The Registry will do well, in my opinion, to have a deliberate policy to build up a stock of experience and expertise in these matters in-house, including some strengthening of the Registry's in-house legal and procurement capabilities, as well as buying in outside legal and contractual expertise as necessary.

Another important element will be to share benchmarking experience, both positive and negative, with other Government bodies and comparable private sector bodies who have longer experience of such partnerships.

The CCTA, now part of the Office of Government Commerce, has published some useful guides about management of partnerships in the field of information technology, including:

- *Acquisition*, ISBN 1 903 09103 9, published by Format Publishing Ltd, which includes sections on Partnerships, Procurement and Contract Management, and
- *Managing partnerships*, ISBN 1 903 09106 3, again published by Format Publishing Ltd, which includes sections on Establishing a Deal, the Procurement Process, Managing the Relationship and the Informed Partner.

CCTA is also currently working on a Procurement Handbook which includes a section on negotiations.

14.3 Possible future Registry partnerships

There are several areas where the Registry is considering the case for contracting further partnerships in the foreseeable future:

- The infrastructure and software of *e-lodgement and e-certificates* within e-conveyancing. This is likely to require a secure extranet solution.
- The provision of resources to support *vectorisation of the Index Maps and Title plans*. As discussed in chapter 6, however, experienced Registry staff will be best placed to do the main part of the task
- Possible call-off contract with computer companies to *provide specialist software and support* and / or *temporary assistance in times of peak loading* when the Registry would otherwise be hard pressed to deliver all that needs to be delivered.
- A possible partnership with a private sector organisation to deliver the large programme of *education and training*, both inside and outside the Registry, which will need to accompany the projected new Land Registration Act and the progressive introduction of e-conveyancing.

The Registry is very likely, in my opinion, to benefit from engaging a private partner for development of the e-lodgement and e-certificates infrastructure. These will be crucial areas within e-conveyancing.

In the other three cases, it is less clear at this stage whether partnership solutions are likely to be beneficial. In all cases, however, partnerships will be an option to be assessed seriously.

14.4 Partnerships involving other central and local government bodies as well

(a) New statutory powers

Well-placed as the Registry has been to contract partnerships between itself and private sector suppliers, it has not been similarly well-placed to join with other public (or private) sector bodies in contracting such partnerships.

The Registry's statutory powers, dating for the most part as they do from 1925, do not deal with, much less facilitate, contractual arrangements of this kind.

The Registry is not alone in this. Many other central government bodies have similar problems.

In my opinion the Registry has already suffered to a limited extent as a result of this problem. The arrangements for contracting the National Land Information Service, NLIS, are almost certainly not what they would have been if the Registry's statutory powers had been updated.

The problem is likely, moreover, to continue and increase. If e-conveyancing is to include electronic settlements, a new joint corporate vehicle bringing together the Land Registry and the other interests concerned will probably be needed to contract with a private sector partner.

The Registry might also find it helpful to set up corporate vehicles on its own account for purposes such as providing education, training and advisory services.

In my opinion, the Registry should solve this problem as soon as practicable. The solution seems fairly straight forward.

The proposed Land Registration Bill should include powers for the Registry to set up corporate vehicles on its own account or with others, or to participate in such vehicles, wherever appropriate, for any purpose of land registration or related purposes, including electronic information and searches, e-conveyancing, e-payments, publications and advisory services. Such vehicles need, moreover, to be able to let contracts to private sector partners.

It would also be for consideration whether any amendments or supplements should be made to the Trading Funds legislation.

(b) NLIS and NLPG

As discussed in Chapter 7, the Registry took a leading part with other Government and local authority bodies in paving the way for introduction of the new National Land Information Service, NLIS, and the related project for a National Land and Property Gazetteer, NLPG.

NLIS will enable conveyancers to launch a single, comprehensive search on behalf of buyers of property rather than a multiplicity of searches. NLPG will, among other things, support the NLIS project by enabling cross references to be made to other data sources through a system of unique national addresses or Unique Property Reference Numbers (UPRNs).

The Government and local authority bodies concerned included Ordnance Survey, the Valuation Office and the Local Government Management Board, now re-named as IDeA, as well as the Land Registry.

These bodies concluded in 1999, rightly in my opinion, that the best way to make the NLIS project happen would be to contract a private sector partner to construct and operate such a facility.

The next question, however, was who should act as client for the project. Whose responsibility should it be to select a provider, negotiate suitable contracts and manage them on behalf of all the public sector bodies?

The central government bodies, notably the Land Registry and Ordnance Survey, concluded that they had no powers either to take on such a task themselves or to set up a corporate vehicle to act on their joint behalf.

Local authorities are far more accustomed than are central government bodies to having to devise special vehicles to enable them to act collectively. The local authority representatives from IDeA suggested, accordingly, that their already existing subsidiary company, the Local Government Information House, LGIH, could take on the task of serving as client.

It was therefore agreed in summer 1999 that the LGIH should carry the project forward on behalf of all the public sector providers.

Since that agreement LGIH, with help from the Land Registry, CCTA and a grant of £2 million from the Government's "Invest to Save" budget, has contracted MacDonald Dettwiler to provide the wholesale or "hub" facilities for the new service. The NLIS hub service went live in February.

LGIH has also now let three retail or "channel" contracts for provision of the NLIS services to market practitioners and others. The companies with channel contracts are MacDonald Dettweiler, Teramedia and PSA-Esri.

In my opinion, NLIS is an excellent model which will greatly simplify conveyancing searches. The IDeA's suggestion of using an existing IDeA subsidiary company to let the contract was extremely helpful, not least in enabling the project to proceed

without delay. The LGIH itself, moreover, has done an excellent job in laying the foundations for the NLIS system and letting the necessary contracts so quickly.

In my opinion, again, however, there are issues of governance and accountability that need to be addressed.

On governance, LGIH is the daughter of IDeA and the grand-daughter of the Local Government Association, LGA. The family tree is as follows:

- The Local Government Association, LGA, is an unincorporated Association of Local Authority Members whose Governing Body is elected every year. Under the Local Government Act 1972, Section 143, Local Authorities may subscribe to such an Association. The LGA can set up companies. It is a free agent, not bound by local authority law on setting up companies or other aspects of local authority law.
- IDeA is a Company limited by guarantee. The Local Government Association, LGA, appoints most of the Directors, who are Local Authority Councillors, though there are representatives from SOLACE, the Trade Unions, Academia, DETR and others as well. The IDeA receives more than 50 per cent of its funding through a “top-slice” of the DETR’s Revenue Support Grant, in an amount recommended by the LGA.
- LGIH is a wholly-owned subsidiary of IDeA. It is a company limited by shares all of which IDeA owns. The Directors are all local authority elected members. LGIH covers its running costs partly from amounts received from MacDonald Dettwiler in return for the NLIS concession. In addition, the Government’s Invest to Save Budget made a contribution to start-up costs, and the Land Registry and IDeA currently support the budget by seconding staff to LGIH. The LGIH Board has delegated day to day management to Andrew Lerner, (Executive) Director of LGIH and an IDeA official, who consults Ted Beardsall, the Land Registry’s Director of Corporate Services, from time to time.

In terms of accountability, the position is as follows:

- IDeA is responsible and accountable, through its Board of Directors, to the LGA. There is also a relationship with DETR in as much as more than 50 per cent of its funding comes from DETR.
- LGIH is responsible and accountable to the IDeA, as being its parent body. There is no effective line of accountability, however, to DETR or any other Government body.
- LGA, IDeA and LGIH are all audited, like companies, by commercial auditors. Neither the Audit Commission nor the National Audit Office have had any involvement.

In the shorter-term, as suggested above, there was good sense in setting up the arrangements in the way they are. This enabled the NLIS project to be launched far sooner than would otherwise have been possible. Much good work has been done.

As a longer-term matter, however, the present arrangements for governance and accountability, and the very limited transparency, seem less than satisfactory.

LGIH is contracting and overseeing the new national system for one-stop property searches. It is probably through this system that most practitioners in the property markets will in future access the key central government searches information held by the Land Registry, Ordnance Survey and the Valuation Office, as well as local authority information. Participation by Scottish bodies is a possibility for the future.

The LGIH corporate vehicle which negotiates, concludes and manages the NLIS and related contracts, on the other hand, is a local authority body (as explained above) in which central government bodies formally at least have no say, other than in their role as providers of information, and about whose activities they know little.

In my opinion, therefore, the governance arrangements for NLIS, and possibly for NLPG as well, ought preferably to be changed. The body which contracts the national system of one-stop searches on behalf of the public sector providers of information needs to bring together representatives of the main central and local government bodies concerned, within a clear framework of responsibility, accountability and transparency.

There are several ways in which this might in principle be accomplished.

1. *Replacement option.* The bodies concerned could agree to set up a new corporate vehicle, involving all the main providers, in place of LGIH.
2. *Transformation option.* LGIH could transform itself from what it now is into a vehicle involving all the main providers.
3. *Joint ventures option.* LGIH and the Government bodies concerned could establish joint ventures or joint corporate vehicles for oversight of individual projects, such as NLIS and NLPG, on the principle of fitting the governance to the project.

Under any of these or other options, it would naturally be important to proceed by agreement between the central and local government bodies concerned.

In my opinion, the first option (replacing LGIH by a new corporate vehicle with shared governance) is barely an option at all. The local authorities in IDeA wish to use LGIH, and in some cases the existing hub facility, not only for NLIS and NLPG but for other purposes as well, notably the Electoral Register. LGIH is also likely to take responsibility for managing the large call-off contract with Ordnance Survey on behalf of local authorities, including police and fire authorities. There is plainly no reason for the central Government bodies concerned with NLIS to be involved in the governance of these other projects.

The second option (which would involve LGIH transforming itself into a different entity with shared governance but still a single entity) is a more attractive variant of the first option. Once again, however, the variety of projects which the IDeA has

placed, or wishes to place, with LGIH effectively precludes any single-entity solution involving shared governance.

The third option, under which LGIH and the Government bodies concerned would establish joint corporate vehicles for oversight of individual projects, such as NLIS and NLPG, seems the most promising. The underlying principle, as implied above, would be to fit the governance to the project.

For *NLIS*, LGIH and the Land Registry would be the main partners in the new joint vehicle. There would be a case, however, for including the Valuation Office and Ordnance Survey as well, and possibly a Scottish representative if the Scots should decide to extend the service to Scotland.

As a practical matter, the easiest way to establish such a vehicle in present circumstances might be for LGIH to set it up in the first instance as a subsidiary company limited by guarantee with a name such as the National Property Information House. The company's constitution and governance could then be adapted to so as to bring the parties concerned together in a suitable way.

With this approach, the inconveniences of having to transfer assets, liabilities, contracts and staff from one corporate entity to another would be minimised and the issues of statutory authority discussed earlier would be easier to handle.

With a project-specific joint corporate vehicle on these lines, responsibility and accountability would be much clearer. The central Government Directors, like the local authority or LGIH Directors, would need to satisfy themselves that the new company was acting properly and delivering good value for money in accordance with the usual public sector criteria. They would be responsible to their Ministers and accountable to Parliament in the normal way, both in relation to the affairs of the company generally and in relation to any of their own subventions to it, either in money or in kind.

The National Audit Office would be entitled to look at the accounts of the company and its stewardship of public funds. This might indeed be reflected in the Joint Corporate Vehicle's Memorandum and Articles.

The position on corporate liability would need to be examined. Under the existing contracts, the Land Registry, local authorities and other suppliers of data are responsible for the data they supply. The NLIS hub and channels are responsible for any corruption of the data within the hub and channels respectively. The main liability that LGIH now has, and a joint vehicle would have, is that the hub or channel providers could in principle sue for breach of contract or inadequate regulation. There are various ways in which this risk could be covered.

As noted in Chapter 7, the absence of any powers to ensure co-operation by local authorities in constructing an electronic national property searches routine of world-class may still turn out to be a problem for NLIS. It might be possible to solve this problem alongside the governance issue.

The position with regard to *NLPG* would need to be considered. At first sight, however, there could be some merit in establishing by similar means a similar joint corporate vehicle, perhaps under such name as the National Addresses Board, to oversee and contract the *NLPG* project.

In this instance the local authority or LGIH representatives would be the leading players but some or all of the central government bodies presently represented on the Advisory Board, which include Ordnance Survey, the Valuation Office, the Land Registry and Royal Mail, could have seats on the Board as well.

It would clearly be necessary to examine LGIH's present contractual arrangements with private sector partners before clinching these matters.

(c) Corporate vehicle for contracting an e-settlements partner

As discussed in Chapter 8, a facility for electronic settlements at completion is likely to form an important element within the new national systems for e-conveyancing.

On the model discussed there, the parties to a land or property transaction who have to make payments to others would do so electronically and with immediate effect, with the help of a clearing house and associated trust, at the time when the transaction is completed. There may however be other models.

Such a facility would need in practice to be managed by a consortium of companies with banking, trust and IT skills of a high order.

The familiar issue of governance then arises. Who should award and manage the contract with the private sector consortium?

As with NLIS, so too here, the best solution would evidently be to set up for this purpose a corporate vehicle bringing together all the main interests concerned. In this case the main such interests would seem to be the Inland Revenue, the Land Registry, Mortgage Lenders and Conveyancers. Box 14.1 offers a visual interpretation.

Such a corporate vehicle could either negotiate the arrangements directly with the consortium or (probably less well) contract with the Land Registry's e-conveyancing partner to do so.

The Land Registry has smaller sums of money at stake than the other participants in the final settlement of property transactions. But it has a keen interest in making every aspect of e-conveyancing work as well as possible for the benefit of those who make property transactions. It is also better placed than anyone else to promote a good national solution.

The Registry's Task Force on e-conveyancing needs therefore to be energetic in pursuing this or alternative projects, in close consultation with the Treasury, the Bank of England and the FSA as well as with the potential partners in the corporate vehicle.

Statutory powers for the Registry to set up, or join others in setting up, corporate vehicles, as discussed in section 14.1, could be important in this connection.

A particular issue which arises on an electronic settlements system is how to ensure that the clearing house and associated trust do not become insolvent. It would clearly be a disaster if that were to happen.

Some measures for consideration in this connection might be:

- The Invitation to Tender could include a requirement that the Clearing House cum Trust must have capital, or capital default facilities, possibly including a Bond, of at least £ X billion. By way of precedent, the London Clearing House has a combination of share capital, promises from members and a credit line from financial institutions as well as income.
- The Government could also legislate to transform any insolvency order brought against the Clearing House cum Trust Consortium into an Administration Order, thus enabling it to continue trading. This would follow the precedent of the legislation on private water companies.
- The Government could in principle legislate for the consortium to have indemnity from suits except for bad faith.

Specific legislation would evidently be needed to give effect to the second and third of these measures if they were thought necessary.

(d) Other possible joint corporate vehicles

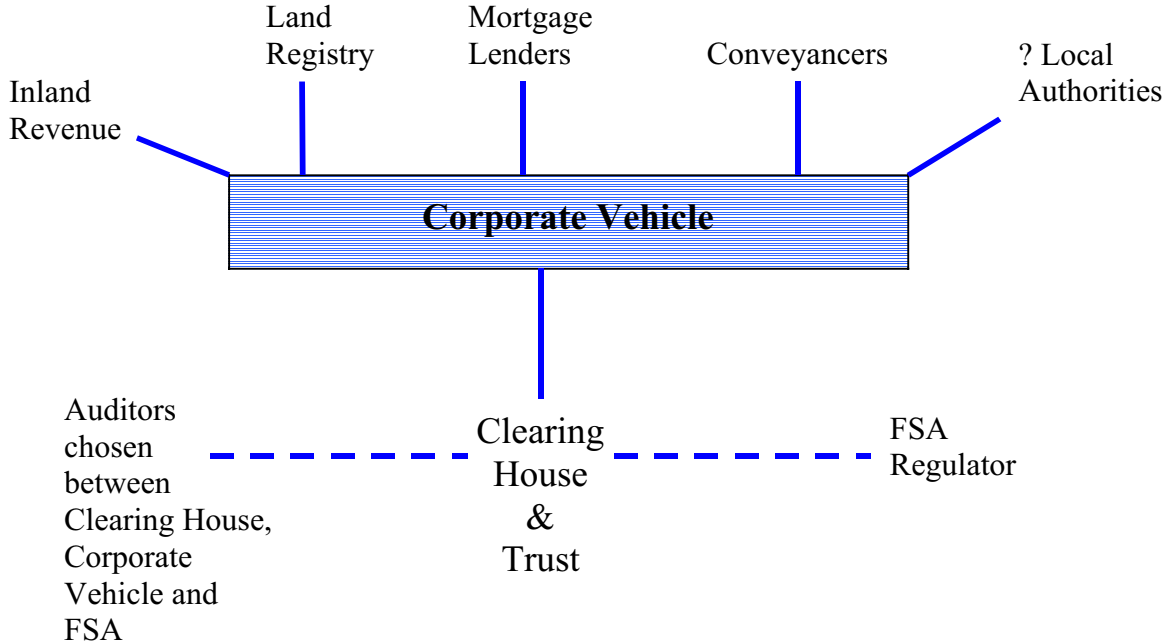
As discussed in Chapter 10, the proposed Land Registry Advisory Services, LRAS, might helpfully be established in due course as a company limited by guarantee, wholly-owned by the Land Registry.

The LRAS in turn might usefully be empowered to set up or participate in joint corporate vehicles or ventures with private sector partners.

Provided that the necessary statutory powers are obtained, this would not seem to raise any difficulties. The Trading Fund Order would need to be amended.

Two further areas where joint corporate vehicles might just possibly have a part to play, alongside private partners, are the proposed Education Service and the proposed Publications Unit discussed in Chapter 10.

BOX 14.1
POSSIBLE CORPORATE VEHICLE FOR ELECTRONIC SETTLEMENTS



15 LEGAL SERVICES AND CENTRAL PLANNING AND COMMUNICATIONS

15.1 Introduction

This Chapter mainly discusses the Registry's legal services. The final section deals with the central planning and communications function.

The Land Registry depends heavily on its lawyers for the core functions of

- developing policy and practice on registration, including draft statutes and rules,
- dealing with complex or potentially contentious points on registration applications, with a view not least to avoiding future disputes,
- handling indemnity claims and other matters of a legal nature, and
- resolving disputes.

In the third and fourth of these roles, the Registry's lawyers act in an impartial and often in a quasi-judicial capacity.

As discussed in Chapter 3, the Registry's lawyers have a high reputation for their expertise in land registration and related matters. They are widely respected as well for their impartiality in resolving disputes. The latter activity continues to form a key element in the Registry's public services.

15.2 Deployment of lawyers

The Registry employs about 160 lawyers at Headquarters and in the District Registries. This is one of the largest groups of lawyers in central government. The Land Registry's title guarantee and statutory obligations make heavy demands on legal skills.

The Solicitor to the Land Registry has oversight of all the Registry's lawyers as well as some other staff working alongside them. The Lord Chancellor appoints the Solicitor as well as the Chief Land Registrar. Land Registry legislation sets out the Solicitor's main responsibilities.

The Registry's Headquarters employs 13 lawyers. Most of these work in three divisions:

- A *Practice Division*, including 4 lawyers and 37 other staff. This is responsible for developing policy and practice on registration including the implementation of legislation, drafting statutory instruments, approval of mortgage documentation for all major lenders and preparing and updating practice guidance, both internal for registration staff in the District Registries, and external for solicitors and other professional conveyancers and for the general public.

The Division co-ordinates the processes for securing approval from the statutory Rule Committee before presentation of statutory rules to Parliament. The Rule Committee is Chaired by a senior judge and includes the Chief Land Registrar as

well as members appointed by the Bar Council and the Law Society and a surveyor from the Ministry of Agriculture, Fisheries and Food.

The Division deals with large lenders and persons making bulk applications affecting land or charges which would otherwise be delivered to more than one District Registry.

The Division also acts as the Registry's central point of contact with conveyancers, either individually or through the Law Society and the Council for Licensed Conveyancers, and with lenders, either individually or through the Council of Mortgage Lenders.

- A *Casework Review Team*, currently consisting of 6 lawyers. This deals with difficult cases, some referred from the District Land Registries and others raised directly with Headquarters. The work mostly concerns disputes which may lead to a judicial determination, indemnity claims, complaints or a combination of these.
- A *Corporate Legal Services Team*, consisting of 2 lawyers. This advises senior management on non-casework areas of the law including European & UK Government policies relating to the rights of the individual. The team also drafts fees orders and oversees the instructing of outside legal advisers in a wide range of specialist areas such as employment law and intellectual property rights.

In addition to these teams, the Solicitor himself, or one of his Deputies, conducts judicial hearings from time to time.

The Registry also has a senior lawyer who has worked on e-conveyancing and related matters for the past two years and is now General Counsel of the e-conveyancing Task Force.

Each of the 24 District Registries has a District Land Registrar and a team of between 4 and 8 lawyers. In earlier times, the lawyers used to take over the handling of difficult cases from other staff. With the introduction of Technical Teams, however, non-lawyers with the appropriate technical authorities now have greater responsibility for dealing with difficult cases. The lawyers, who form an important part of each technical team, are now more involved in advising on and resolving the more complex and novel technical registration points, while still playing a major role as decision makers on casework and in developing the technical expertise of the other members of the team. Importantly they are concerned with 'dispute avoidance' by resolving potentially contentious issues at the time of registration.

The District Land Registries deal in the first instance with almost all the Registry's legal casework. Practice Division and the Operations Development Group become involved with large scale transactions such as transfers of chains of shops or public houses or large portfolios of mortgages. Their task is to settle a common approach to the application that all District Registries will follow and to act as a central point of liaison with the applicant's solicitors.

15.3 Indemnity payments and other casework

Many of the Registry's difficult cases involve possible or actual payments of indemnity under the guarantee of title that lies at the heart of land registration. The law provides that the Register may be rectified and that the Land Registry pays indemnity in cases where the error causes loss.

In this as indeed in other areas, the Registry's general policy, rightly in my view, is to proceed administratively, in inquisitorial rather than adversarial mode.

The Registry stands ready to reach agreement as rapidly as possible in such cases and to pay indemnities on a "no-fault" basis rather than to deny liability in the way that a private sector insurer would be inclined to do. The issue is simply whether the Register error has caused loss. Even in cases where the error was caused by others, the Registry pays indemnity before pursuing its rights of recourse against those responsible.

When assessing the substantive loss the Registry sometimes seeks guidance from the Valuation Office's District Valuers. These advise the Registry on the value of the properties concerned. In some cases the Registry may ask the District Valuer to negotiate on valuation with the applicant's valuer. The Registry pays indemnity on the basis of these valuations, together with other allowable expenses such as legal costs.

The process is extremely rapid and extremely cheap compared with title insurance systems involving private sector insurance and heavy legal costs.

As implied above, where appropriate the Registry can subsequently take action to recover payments. The circumstances where money is recoverable are:

- i. where someone has caused or substantially contributed to loss by fraud;
and
- ii. where the claimant or person in whose favour the Register has been rectified had a right of action against someone.

Rights of recourse arise in approximately 15 to 20% of cases. The Registry always try to reach agreement with someone against whom they have a right of recourse before commencing proceedings. If, as rarely happens, Court proceedings commence, the Registry instruct the Treasury Solicitor to act for the Chief Land Registrar.

The Registry's record in obtaining recoveries has been good. The Law Society's Solicitors' Indemnity Fund has been a major source of recovery where rights of recourse are against a solicitor but this right only applies to a proportion of cases. With the new regime of private professional indemnity and fidelity insurance, the emphasis may shift to professional indemnity insurers.

In practice, the Registry's payments under the guarantee and indemnity have always so far been remarkably low. As discussed in Chapter 17, the average amounts paid out annually over the past 10 years, net of recoveries, have been around £1.7 million. This

is a tribute to the quality, skills, experience, care and attention of the Registry's staff, not least the lawyers.

There must always be some risk that fraudsters, helped by negligent conveyancers, will develop temporarily successful scams leading to claims for indemnity on a scale not previously seen. The Registry remains attentive, however, to nipping such developments in the bud.

The delegated authorities for payments of indemnity are as follows:

- Solicitor to HM Land Registry – unlimited
- HQ Land Registrar – up to £75,000
- District Land Registrar – up to £50,000
- HQ Assistant Land Registrars – up to £15,000
- District Registry lawyers with a full Technical Authority Number 6 – up to £3,000
- Area Managers – costs of up to £500 (excluding VAT)

In practice, therefore, all the more serious cases and all unresolved disputes come to Headquarters. Almost invariably, issues of indemnity are settled without the need for judicial determination. Of the dispute cases, a small minority are referred to Court. The majority are given a date for a Land Registry hearing. Most, however, are settled ahead of adjudication, often a day or less before the adjudication hearing was due to begin.

In accordance with the principle established in the Land Registration Acts of the 19th century, and confirmed in subsequent statutes, the Registry plays a discreet but invaluable role in determining administratively a wide range of disputes in land and property, notably boundary disputes, problems with rights of way, and adverse possession (or “squatting”) cases.

The District Land Registry lawyers spend considerable amounts of time dealing with such cases. Where they cannot be resolved locally the cases are referred to Headquarters.

As the public become more sophisticated and consumer conscious, and as the number of registered titles increases, so the scope for a dispute on a registered title increases.

15.4 Adjudication

Again in accordance with the statutes, the Solicitor or his Deputies are able to adjudicate in cases which the Land Registry's lawyers have not been able to resolve administratively. Almost half of all hearings take place at the Land Registry Headquarters but they can be held at the most convenient District Land Registry or indeed if there is good reason for doing so somewhere else. A recent hearing was held in a council chamber in High Wycombe. The form the hearings take is conventional. All oral evidence is given on oath subject to cross-examination and re-examination in the usual way.

The solicitor has a wide jurisdiction to hear and determine disputes, both about dispositions of registered land and rectification of register entries and plans. Many

cases involve adverse possession and boundary disputes. There may or may not be indemnity implications. If there are, they are wholly disregarded at the time of the hearing and are dealt with administratively afterwards. The Solicitor delivers judgements and awards costs. He can refer cases to the High Court instead if he thinks that the Court is the more appropriate forum.

The parties to the Solicitor's adjudication hearings have the right to appeal to the High Court. Given this right of appeal, the adjudication process is believed to be entirely compatible with the new human rights legislation.

In practice, appeals to the High Court have been rare and reversals of the Solicitor's findings even rarer. The parties to adjudication cases probably calculate that a Court is unlikely to offer them a more favourable outcome. In terms of costs, moreover, the risks escalate as soon as the parties contemplate Court proceedings.

The Registry has recently tightened its internal rules to ensure that the Solicitor or his Deputies have played no previous part in the cases they hear. It has also just introduced its own set of Hearings Procedure rules. In my opinion, however, and more importantly in the opinion of the Solicitor himself, the Registry will be well-advised to go still further.

Chapter 10 proposes accordingly that the roles of Chief Adjudicator and Solicitor should be separated. On these proposals, the Lord Chancellor would appoint a separate Chief Adjudicator who would head a separate small Adjudication Unit, still located within the Land Registry for purposes of pay and rations but independent of the Chief Land Registrar, the Solicitor and the rest of the Land Registry.

15.5 Policy and practice work

As noted above, the Practice Division advises on the development of policy and practice on registration including the central tasks of

- implementation of legislation
- drafting statutory instruments and
- preparation of Practice material
- approval of mortgage documentation for the major lenders
- approval of forms used by customers in their dealings with the Registry
- setting up of special arrangements for large or complex transactions.

The District Registries rely heavily on the Division's work, not least the Practice material. This has recently been converted to a user-friendly electronic format under the OPAL project. This means that access and updating are far easier than they used to be.

As discussed above, the Division tends to act as the main point of contact between the Registry and conveyancers' and lenders' representative bodies. Regular meetings are arranged with the Law Society, Council for Licensed Conveyancers and the Council of Mortgage lenders.

Partly, perhaps, as a result of this, the Division has become heavily involved in certain aspects of re-engineering the registration processes, including electronic notification of discharges (ENDs) and the first steps towards de-materialisation of deeds, both discussed in Chapter 8.

The Division has also become involved in discussions with the Inland Revenue on possible changes in the procedures for collecting stamp duty. The problems at present include:

- too many hands being involved in stamp duty transactions
- too many errors in amounts
- too much misdirecting of documents.

Under present legislation, it has been difficult to re-engineer the stamp duty processes. The Inland Revenue has now, however, promoted new Finance Bill legislation to permit electronic interpretations of the stamping process.

It will be important to take advantage of this, and of the wider move toward e-conveyancing, to re-engineer totally the processes for assessment and payment of stamp duty and to remove the present need to retrieve earlier papers, at considerable expense, in cases where appeals against payment are made subsequently.

The Registry's General Counsel for e-conveyancing, based at Coventry, has been performing policy tasks of high priority and importance that might normally have fallen to the Practice Division.

Chapter 8 discusses the e-conveyancing issues at some length. The new Task Force will have the main responsibility for driving these forward.

The proposed new Land Registration Bill will not only update the whole statutory basis of land registration and pave the way for e-conveyancing. It will also deal with related issues of considerable importance including:

- changes to the law on adverse possession designed not to make registered titles totally indefeasible but to enhance the protection for registered proprietors,
- provisions for the protection of all eligible interests in registered property by means of a modernised Notices procedure,
- provisions for reducing the scale and importance of overriding interests not shown on the Register, and
- the treatment of Crown properties.

These and the multitude of minor changes introduced by the Bill will, in effect, require Practice Division to operate along parallel lines for a year so. One part of the Division will need to maintain current practice under the 1925 Act. The other will need to reproduce all the internal and external policies and material, redefined to take account of the new Act.

15.6 Corporate legal services

The Registry's corporate services lawyers draft and advise on fees orders and some other subordinate legislation such as the Land Registration (Conduct of Business) Regulations.

They provide legal advice to senior management and Headquarters Divisions on non-casework areas of the law, including contractual and employment matters. They also advise on governmental policies relating to the rights of the individual. On behalf of the Registry they also oversee the instructing of outside solicitors where such assistance is required.

Policy on the levels of Registry fees is decided in discussion between the Director of Operations and the Finance Director.

15.7 Some issues for consideration

The present or earlier Chapters have already commended the case for four changes that will particularly affect the Registry's lawyers:

- i. establishing an *independent Chief Adjudicator* and Adjudication Unit (Chapter 10 and the present Chapter),
- ii. establishing a *Bill Task Force*, Bill Team and Bill implementation Team
- iii. showing *beneficial as well as legal ownership* on the Register if the Government so decides, and
- iv. *publishing the Registry's main Practice Books* on the Internet, in the interests of open government and transparency of administration (Chapter 10).

Two further areas where the Registry should, in my opinion, look for early progress are:

- v. *Recording of charges on companies' properties*

Subject to the outcome of the Company Law Review, there may be scope for a joint project with Companies House to ensure a co-ordinated approach to the verification and recording of charges on companies' property. Failure to record such a charge at Companies House means that a liquidator will not be bound by it. Failure to record it on the Land Register means that dealings may proceed in the property without regard to the charge, so that the creditor will not be secured. There may also be risks to the Registry's guarantee.

There may be a case for automatic e-copying of charges on companies' property between Companies House and the Land Registry. That would ensure that registration of charges in one register or the other was not inadvertently overlooked as well as reducing compliance costs. Those who wished to know about charges on a particular company would consult the Companies House

register, while those wishing to know about charges on a particular property would consult the Land Register. There may, equally, be other solutions.

vi. *Commercial and contractual expertise*

The Registry's need to negotiate and supervise contracts is now so great that there may be a case for strengthening the in-house expertise in these areas as well as continuing to buy in advice from outside.

Finally, there are three issues in the area of governance and administration:

vii. *Co-ordination with the e-conveyancing Task Force*

The Practice Division's role in relation to developing e-lodgement of applications, e-certificates and the re-engineering of stamp duty collection will need to be reconsidered now that the Task Force has been set up. In my opinion these are mainly managerial rather than legal issues. The Task Force will need therefore to lead on them and to join the Practice Division in consultations with conveyancers. But the Division will need to contribute its wisdom as well on a continuing basis, perhaps through membership of the Task Force.

viii. *Delegated settlement authorities*

There may be a case for increasing the delegated authorities of District Registry lawyers to settle indemnity claims.

ix. *Benchmarking*

In a wider perspective, the Registry's legal services would do well, in my opinion, to benchmark themselves at some point in the next two or three years against comparable, or partly comparable, legal services in other carefully selected organisations, both public and private sector. This would mean that all major sections of the Registry would have on-going programmes for periodic benchmarking with a view to sharing ideas, experience and best practice.

15.8 Corporate Communications and Strategy Group

(a) *Present tasks*

The Registry has a small Corporate Communications and Strategy Group consisting of eight staff headed by a Director of Communications.

The Director of Communications reports to the Chief Land Registrar but has an additional reporting line to the Deputy Chief Executive on property price reports.

The Director personally takes the lead on central planning issues within the Registry. With some help from the Deputy Chief Executive's assistant, who also serves as secretary to the Registry's Board, he co-ordinates and drafts the Registry's

- Strategic and Business Plans,
- Annual Report and Accounts,
- Six-monthly monitoring reports for the Lord Chancellor, and
- Submissions to Ministers (apart from those relating to Land Registration Rules).

He also acts as general assistant and adviser to the Chief Land Registrar. He organises Ministerial visits to the Land Registry and drafts Ministers' speeches and announcements on Registry matters.

Within the Group, an Internal Communications Unit of three staff looks after internal communications within the Registry and manages the Registry's programme of overseas visitors.

The internal communications system includes

- a *cascade briefing system* whereby Headquarters briefs the Area Managers who in turn brief staff in the District Registries in regular meetings down to Team levels about major matters where management attaches importance to face to face communication with staff,
- an *intranet and e-mail system* for more routine briefing of Area Managers and part-time communications officers in each District Registry,
- an *e-mail system for improved upward communication* by staff to management. The first Friday of every month has been set as a Board e-mail day, when staff are specifically invited to raise suggestions or questions with Board members and may expect a response within five days.
- Two internal *magazines*: "LR News", which is produced bi-monthly and focuses on business issues and "Landlines", which is produced quarterly and focuses on staff activities.

Another Unit employing four staff acts as

- a Press Office,
- an External Publications Division,
- guardian of the Registry's Web site, and
- manager of the Registry's programme of county shows and national exhibitions.

Publications include the Registry's Quarterly Reports on Property Prices, *Landnet*, the quarterly customers' magazine and the Annual Report and Accounts. The Unit also provides bespoke monthly reports giving prices information by postcode.

The Web site is an increasingly important element in the Registry's interface with the rest of the world. Content includes interactive property price data, explanatory leaflets and Land Registry forms (which can be completed online but not yet forwarded electronically).

One member of staff looks after the Registry's compliance with central initiatives including Modernising Government and Civil Service Reform, and cross-cutting legislation such as the Data Protection and Freedom of Information Acts. He also drafts answers to Parliamentary Questions.

A further member is responsible for co-ordinating the Registry's e-strategies and for liaison with central government, particularly the Office of the E-Envoy, on all aspects of e-business.

(b) Future tasks

In my opinion, this Group successfully discharges a considerable range of important central functions with commendable economy. The Registry produces good planning and reporting documents and has devoted much effort to good purpose in developing internal communications as well as launching a Web site with high potential.

The Group will, however, need to play a more proactive role in the period ahead, especially in the area of central planning and support. Some particular priorities, alongside existing priorities, will be:

- to support the Board in promoting and co-ordinating implementation of a strategic programme along the lines sketched in this Report
- to develop in co-operation with the Valuation Office the collection and publication of much enhanced property market data
- to provide a strengthened Board secretariat function
- to help the Board to ensure that the Registry is well represented in inter-Departmental committees.

Chapter 13 includes accordingly proposals for strengthening the Group so that it may more proactively deliver the central planning, co-ordination, secretariat and representation functions.

It also proposes the establishment of a new Statistics and Publications Unit with a remit to deliver the pillar 5 strategic objective of transparent property markets in close co-operation with the Valuation Office.

16 OPERATIONS, INCLUDING MANAGEMENT AND PERFORMANCE TARGETS

16.1 Introduction

The Land Registry has thoroughly re-engineered its operational processes in recent years alongside the progressive introduction of new electronic and scanning technologies.

In my opinion, the Registry has designed and handled this programme exceptionally well. The Registry is now handling a third more cases than at the height of the 1980s property boom with a third fewer staff. The improvements in customer service and efficiency have been impressive.

There are certain important challenges still to be met. As discussed in earlier Chapters, moreover, a further programme of major reform lies ahead.

That should not, however, be allowed to detract from the magnitude of the achievements so far.

16.2 Size and tasks

The Operations Units employ the vast majority of the Registry's staff, some 6,930 out of a total of around 7,800 full-time equivalents (excluding overtime).

The Director of Operations oversees:

- The 24 District Land Registries, most employing between 300 and 450 staff,
- The Land Charges Department, employing some 92 staff, and
- The Operations Development Group at Headquarters, employing 12 staff.

The District Land Registries are headed by a District Land Registrar, who acts as the local legal chief, and an Area Manager, who acts as the local Chief Executive. The District Land Registrars report to the Solicitor. The Area Managers report to the Director of Operations.

The District Land Registries undertake all the front line work of keeping and updating the Register, including the interface with the public, and the vast majority of the legal casework, including difficult registrations, indemnities for smaller amounts and promoting agreement in boundary and other disputes.

The Land Registry's Headquarters handles only limited amounts of casework in three main categories:

- i. The Solicitor or his Deputies hold adjudication hearings for cases which the District Land Registries or the casework Review Team have referred for adjudication (see Chapter 10)

- ii. The lawyers of the Headquarters Casework Review Team handle the more difficult cases which the District Land Registrars have referred to them (see Chapter 15).
- iii. The Customer Services Manager at Headquarters plays a role in receiving complaints which the District Land Registries have not been able to resolve.

The Operations Development Group at Headquarters, headed by the Director of Service Development, takes the lead in promoting service improvements, setting and monitoring standards, quality control, customer relations and liaison with the Computer Services divisions. The Division, in close co-operation with the IT Divisions, has developed impressive systems for management information. The Group is also responsible for the Agency Quality initiatives such as self-assessment (under EFQMEM) and benchmarking.

Chapter 9 discusses the work of the Land Charges Department.

16.3 Regional network

As implied above, most of the Registry's work takes place in District Land Registries and other units located outside London. Only 4 per cent of the staff are now based in the London Headquarters.

In the period since 1955, when all registration work was still carried out at the Registry's London Headquarters, the Registry has set up the network of 24 District Land Registries throughout England and Wales mentioned above. Box 16.1 shows the present network.

Each of the 24 District Land Registries serves a defined geographical region comprising a number of local authority areas. On average each District Registry serves a population of some 2 million people.

In the earlier years of the dispersal programme, the District Land Registries served the local populations in the areas where they are situated. This made it easier for people to visit a Land Registry Office.

With the passage of time, the link between District Offices and the local populations has been diluted. Few people now visit Land Registry Offices in person. The busier Customer Information Centres can see up to 30 customers a day but this falls to less than 10 in some offices based out of town. Most searches and other preliminary services are now conducted by post or telephone or electronically. Most applications for registration are now conducted by post. In the future, they will mostly be conducted electronically.

Although the District Land Registries continue to serve particular areas of the country, the areas served are no longer always the areas where the Registry is situated. The Durham (Baldon House) District Land Registry, for example, maintains and develops the Registers for Surrey, and offices at Birkenhead, Telford and Swansea deal with some of the London boroughs.

The Registry has also increasingly placed certain Headquarters functions inside or close to District Land Registries. The three main Computer Services Divisions, for

example, are all located at Plymouth, as is the Land Charges Department. Computer-based Training is developed at Lytham and the LR Direct team is now based at Peterborough.

The Registry's District network seems to me to have been a considerable success from several points of view.

- (a) *Optimum Unit size.* The Registry's experience has been that the optimum size for Units is between 300 and 400 staff. In units with less than 300 staff, diseconomies of scale begin to be a problem. Units with more than 400 staff, on the other hand, have been found to work less well.
- (b) *Staff quality.* In many areas of the country, the Registry has been able to recruit more able staff than could have been recruited in London as well as saving on payments of London weighting.
- (c) *Constant improvement through benchmarking.* The Registry has been able to improve performance markedly by delegating considerable discretion to local Area Managers and comparing productivity, unit costs, accuracy, speed of response, complaints and working practices between individual Registries with a view to spreading best practice throughout the network. The Registry's excellent management information system generates timely data on comparative performance. If there are areas of particular success or trouble, therefore, management can immediately identify them and take any necessary action.
- (d) *Piloting.* The existence of individual units of manageable size facilitates the Registry's established good practice of piloting important innovations of approach or process before spreading them throughout the Registry.

In a wider context, the District Land Registries have also brought benefits to the localities, sometimes less prosperous, where they are placed. The Registry is often seen locally as a prestigious employer.

A potential disadvantage in a regional structure of the kind the Registry now has is that it may complicate the task of re-deploying resources at short notice to deal with varying local pressures.

In practice, the Registry has been able largely to overcome this problem by breaking the traditional link between the District Office and the area in which it is located. The Registry Headquarters has the option to transfer responsibility for particular local authority districts from one District Registry to another. At any one time, moreover, the Registry has many substantial applications pending from major landowners such as public sector bodies and utility industries. These can in principle be assigned to any of the 24 District Land Registries. In the short-term, too, work can be transferred between District Registries on an ad hoc basis so as to even out peaks and troughs.

In my opinion, the Registry will be well advised to retain the present regional structure without major changes for the foreseeable future.

If the Registry's strategic programme or unforeseen changes in workload were to involve a significant increase or reduction in staff numbers, there could well then be a case for increasing or reducing the number of District Registries.

The strategic programme set out in the earlier Chapters of this Report, however, if accepted, will not involve major changes in staff numbers in the next few years. The present structure is sufficiently flexible, moreover, to accommodate significant variations in on-going workload.

The Registry will therefore do well, in my opinion, to concentrate its energies on delivering this programme without the diversion of major changes in the regional structure.

The Registry's Board has made clear that they too are strongly of this persuasion. Their preference will be to contain any increases or decreases within the existing structure.

16.4 Workload and staff numbers

As noted above, the Registry's caseload has risen sharply in recent years. The Chart at Box 4.7 shows annual caseloads, measured in terms of standard workload units, alongside staff numbers for the past 11 years.

As the Chart indicates, workloads reached a level then unprecedented in the property boom of the late 1980s. The Registry responded by raising staff numbers to raise full-time-equivalent staff numbers to over 12,000 but had major difficulties even so in dealing with backlogs.

When recession followed boom, the caseload fell back. Standard workload units were around 25 per cent lower in 1992-93 than in 1989-90. Staff numbers fell by a similar proportion.

Since 1992-93, the caseload has built up again. Searches, enquiries and other preliminary services have grown even more strongly. The workload has now reached a level about 30 per cent above the peak of the late 1980s boom. The main influences have been:

- the revival of the property market
- the growth of re-mortgaging, reflected in an increasingly rapid turnover of mortgages
- the new statutory "triggers" for compulsory registration introduced in 1997
- a general increase in correspondence and enquiries, prompted perhaps by the greater accessibility of the open Register and more recently by the inclusion of transaction price data
- a continuing increase in the number of households, and
- the increased (and increasing) baseline of registered titles.

With the help of new processes and technologies, however, the Registry is handling the 30 per cent increase in workload with about 30 per cent fewer staff than at the

peak of the 1989 boom and about 15 per cent less than in the “trough” year of 1992-93.

The implied increase in staff productivity, on these figures, since the 1989 boom is of the order of 43 per cent.

Looking ahead, the Registry’s projections assume that workloads will continue to increase in line with the growing number of households, the impact of new triggers, voluntary first registrations, the continuing growth and sophistication of the mortgage market and increasing public awareness of the information available from the Registry. Chapter 4 made certain assumptions about future workload when projecting the staffing implications of the proposed strategic programme.

Such projections are necessarily subject to a wide margin of error.

For present purposes, however, the important point is that the Registry is well-placed to respond flexibly to market variations. There are several particular degrees of freedom:

- i. The Registry, like other organisations, is able to vary the amounts of overtime working and recruitment.
- ii. There are many landowners, in both public and private sectors, with immense property portfolios which the Registry is able to register at a variable pace, as market pressures permit.
- iii. The strategic programme for digitising the Index Map and (later) Title Plans could in principle be accelerated or decelerated to offset market fluctuations, as could (to some extent) the programme for completing the Register. Staff could be re-deployed accordingly, provided that the Registry uses mainly its own skilled staff for these strategic tasks.

If the property market or the mortgages market should enter a boom period again, therefore, the Registry would have considerable flexibility to divert resources temporarily from the major landowners and some of the strategic programmes into day to day dealings.

If the property or mortgage markets should decline, on the other hand, resources could fairly readily be re-deployed in the opposite direction.

16.5 Reform programme

Having embarked on computerisation in the late 1980s, the Registry set out in the mid-1990s on a major programme to transform working processes with a view to enhancing quality, efficiency, value for money and customer service.

The Registry joined a national benchmarking network which enabled it to compare its processes with those of other organisations including Nat West Home Loans, Vauxhall and Kwikfit.

The Registry has been using the European Foundation for Quality Management Excellence Model (EFQM) for many years as a basis for business planning. An

early assessment indicated that, while in many respects the Registry's services scored well, some of the key business processes, involving applications for new Register entries or changes in the Register, were inefficient.

The Registry hired consultants accordingly in 1998 to examine the processes for

- i. first registrations of previously unregistered property
- ii. transfers of part of a property into a new title
- iii. discretionary first leases
- iv. other "dealings", involving changes in ownership or charges but no more fundamental changes.

The Registry decided to reform the processes for providing preliminary services, such as searches of the Index Map, searches of the Register and the provision of office copies of Register entries and title plans, as part of an extensive programme for scanning, electronification and electronic access.

16.6 New processes for dealing with applications

In the light of advice received and experience gained, the Registry has transformed the processes inside the District Land Registries for dealing with *applications*.

Whereas previously the handling of such processes consisted of around 20 sub-processes, involving around 12 staff specialised in particular aspects, the new systems provide for a single member of staff to carry out all the processes in all but the most complex cases after an initial sift that captures the documentation on to the computer systems.

Boxes 16.2, 16.3 & 16.4 gives graphic illustrations of how the processes have been re-engineered and streamlined. Every box within the diagram denotes handling by a separate member of staff.

Key elements within the new systems for dealing with applications are:

- Combined operations
- Small Team working
- Technical Teams
- New pay and grading structures
- Data-entered Register entries and scanned title plans and supporting documents, available on screen
- Computer mapping on PCs for new titles

Under combined operations, increasingly one person deals with all aspects of a straightforward application, as against the ten or a dozen people who would have dealt with it before.

The small teams typically consist of 10 to 20 people and cover a particular district. Members of staff, other than trainees, are multifunctional and deal with cases themselves up to defined levels of transaction value and complexity. The teams are self-managed in that they take responsibility for producing and reviewing business plans and organising training and development to meet the team's needs.

Technical Teams, including lawyers and mapping specialists, deal with the more difficult cases. Each District Registry has between one & three such teams.

The Registry has restructured its structure of grades so as to facilitate the new methods of working. As discussed in Chapter 18, the Registry believes that increased productivity has more than compensated for the upward drift of grades from clerical to executive levels.

The ability of staff to bring relevant Register entries, documents and title plans to the screen, and increasingly to amend the Registers on screen, has eliminated much time-consuming work of retrieval.

For new titles, the introduction of computerised mapping has reduced the time needed by an estimated 40 per cent on average and by much more in some cases. Staff no longer need the well-developed cartographic skills that used to be needed for preparing title plans, though computerised mapping does require a substantial training programme.

As implied above, these new processes depend heavily on computerisation and training. The Registry has put much effort accordingly into these areas.

The dividends in terms of increased productivity from the re-engineered processes discussed above have already been considerable. A review is currently under way to quantify the gains arising from the re-engineered processes and computer map system.

16.7 Scope for improvements in the area of applications

Excellent as the progress made has been, there remain some challenges to be overcome in the area of applications. The following in particular should be mentioned here.

(a) The continuing scope for productivity improvement

First, the scope for further productivity dividends should be substantial as roll-out of the new systems is completed and the District Registries that perform less well raise their performance levels towards those of the highest performers.

(b) Delays in processing of more complicated applications

Second, the Registry has not yet been able to solve the problems of backlog and delay in relation to the more difficult applications, such as first registrations, transfers of part and dispositional first leases.

In 1999-2000, rather less than 80 per cent of such applications were settled within 25 working days. This was the one performance target which the Registry did not manage to deliver in 1999-2000.

Within the 80 per cent figure, only some 60 per cent of new titles were delivered within 25 working days. Some 90 per cent of straightforward dealings applications, however, were settled within 3 to 4 days.

The Director of Operations is determined, rightly in my opinion, to secure dramatic improvements in this area.

(c) Errors in applications received

For the most part, the delays just discussed appear to arise not from any direct fault on the Registry's part but from the high incidence of errors in applications received.

As discussed in Chapter 5, more than 50 per cent of applications are incorrectly lodged. Sorting out the errors, even where they are simple matters like wrong or inconsistent spellings of names or incorrect amounts of stamp duty or Land Registry fees, tends to be a major source of delay.

As the Law Society has pointed out, moreover, the delays may be compounded in cases where present statutes oblige conveyancers to obtain signed confirmation from previous owners for the correction of minor slips in documentation.

In my opinion, the Registry needs to consider how the errors in applications received can be reduced.

As discussed in Chapter 8, the introduction of e-lodgement under e-conveyancing should eliminate most of the errors.

In the meantime, the Registry might do well to consider helping to design conveyancer software packages or upgrades similar to those which will be used for e-lodgement. Until the e-lodgement facility is available, conveyancers would still have to print out and mail the applications. But such software might enable conveyancers to eliminate mistakes in names, fees and duties, and omissions in advance of e-lodgement as well as helpfully preparing the way for e-lodgement.

(d) Upgraded "Standover" analysis within management information system

Still on the subject of errors in applications received, the Registry may also wish to consider extending its excellent management information system to include as a standard feature a more reliable and informative analysis of applications in "standover". These are applications where the Registry cannot make any progress until errors or omissions have been sorted out.

The management information system could report regularly on the number of applications being delayed, the length of the delays, the sources of the delays and the reasons for them. Management would then have a better insight into the nature of the problem, and changes in it over time.

As discussed in Chapter 5, items in "standover" not only accentuate delays in registration but also increase the Registry's burdens and costs and reduce the scope for making progress in other areas.

This matter could form part of the regular agenda for discussion in the regular meetings between the Registry and the conveyancer bodies.

(e) Lost certificates

In the not infrequent cases where land or charge certificates have been lost, and replacement certificates are needed, the Registry quite rightly checks the cases carefully so as to minimise the risks of fraud.

This problem will largely disappear as dematerialisation becomes the norm.

In the meantime, the Registry effectively allows conveyancers seven weeks for replacement certificates. There may be a case for levying a charge in all cases and for adding a surcharge if conveyancers do not respond within (say) three weeks rather than seven weeks.

The Council for Licensed Conveyancers felt that individual District Registries applied somewhat different rules with regard to lost certificates.

(f) Perceptions of de-skilling

As discussed in Chapter 3, the conveyancers' representatives with whom I discussed these matters felt that there had been some "de-skilling" of the Registry staff who deal with applications.

In the perception of the Registry's management, skill levels and training programmes for front line staff have never been higher. More than 400 staff will shortly be enrolled in the new Land Registry Qualification programme.

The Registry fully accepts, however, that this matter must be kept under review in the regular meetings with practitioner groups. As discussed in Chapter 5, front line staff need to put clients in touch with Registry lawyers as soon as it is clear that a lawyer's expertise is necessary to deal with a query.

16.8 New processes for preliminary services, including searches

The Registry responds with remarkable speed to requests for searches, office copies and other preliminary services. These requests may be on the critical path for buyers. The Registry has therefore been right, in my opinion, to give priority to achieving fast response times in this area.

The Registry's targets are to deliver 98 per cent of office copy and official search requests within two working days and 100 per cent within three working days.

The introduction of telephone and online searches has transformed the service in this area. The Registry has eight telephone centres. As discussed in Chapter 7, moreover, there is a facility for online searches through Direct Access and now LR Direct. The one-stop NLIS searches service, too, has gone live, initially with paper processes.

In terms of costs, the online and telephone services are much more economical for the Land Registry, as well as faster for the recipient, than the postal system.

Further cost savings have been made, and more are planned, by printing and despatching the majority of official search results and office copies from Plymouth.

In the consultation exercise for the Review, my interlocutors were united in their praise for the Registry's searches service.

Looking ahead, there are two further improvements which the Registry is considering (in the first case) or may wish to consider (in the second).

(a) Opening and viewing hours for telephone and online access

There is a case for extending online access hours to (say) 20 hours a day, rather than the present 8 or 9 hours, and on Saturdays. Telephone access might also be extended by an hour or two at each end of the day, depending on the demand. An internal review is already under way with a view to extending service and opening hours for telephone and on-line access as well as personal callers.

(b) Differential searches charges

The charges for postal searches are already higher than those for telephone and online searches so as to encourage switching and cost savings. The differential could be increased still further.

16.9 Customer service

The Land Registry has placed great emphasis since the early 1990s on improving customer service.

The Registry also commissions annual customer satisfaction surveys from independent consultants. As discussed in Chapter 3, the scores obtained are truly impressive. The Registry also gauges customer opinion by sending out questionnaires with completed applications on a monthly basis.

As mentioned in Chapter 2, the Registry has won Charter Mark awards on every occasion when it has had scope to do so. It hopes to win a further Charter Mark Award this year.

In preparation for this, the Registry launched a further review of its customer service in 1999. In accordance with the Review's findings, a customer service group chaired by the Operations Director is intensifying the Registry's efforts in a number of areas:

- Regular meetings between District Registry staff and user panels
- Greater openness with customers on service delivery
- Better leaflets and briefing, more effectively distributed
- Developing policy for special needs
- Plain English
- Formal processes for reviewing the Independent Complaints Reviewer's reports
- Questionnaires for complainants who have been through the complaint procedures
- Enhanced training for staff in dealing with impatient customers
- A strategy for working with other public service providers
- Consulting customers on a range of proposed new initiatives.

In my opinion, the Registry has done well to place such emphasis on customer service and has rightly recognised that there can never be cause for complacency.

The only small observations I would offer are as follows:

- First, it may be useful to remember that in a broader perspective virtually everything discussed in this Report is ultimately about improving services to the ultimate customer or, in a few cases, to society generally.
- Second, the Registry like other organisations needs to listen carefully when customers voice specific concerns. Surveys will not necessarily cover everything that is important.
- Third, the Registry's published briefings, for example the statement of service standards, the certificate covers, and the corresponding website briefings, could in my opinion be clearer, better focussed and more customer friendly than they are. The right information, presented in the right places in accessible and easily understood forms, is important in promoting customer satisfaction and, in particular, pre-empting complaints which arise from misunderstandings. The Independent Complaints Reviewer emphasised this need.
- Fourth, the ultimate customers who own, lease or conduct transactions in land and property (and pay the fees) are no less important than the immediate professional users of Registry services. The Registry should not in my opinion serve the latter at the expense of the former. For the most part no such conflicts arise. The Registry needs, however, to see the immediate users not just as customers but also as partners in the common enterprise of providing the best possible service to the ultimate customer. Several of the suggestions in this Report have been made in this spirit.
- Finally, and pursuant to the previous point, the Registry may suffer some temporary reduction in customer survey ratings, which largely come from the conveyancer population, as e-conveyancing and other associated reforms are introduced. This, if it happens, would be entirely understandable. It should not deflect the Registry from pursuing these reforms. As with the trade figures, the ratings will need to be seasonally adjusted before they can be assessed properly. The Registry may also wish to consider how best specifically to assess the satisfaction of end-users, for whose benefit e-conveyancing is being introduced.

16.10 Welsh Language

The Welsh Language Act 1993 established the principle that, in the conduct of public business and administration of justice, the English and Welsh languages should be treated equally. The Act also made provisions for the preparation of Welsh Language schemes. The Welsh Language Board approved the Registry's scheme in March 1998.

The Registry's Welsh Language Steering Group has done much work to implement the scheme. The District Land Registry for Wales presents a bilingual image, maintains a Welsh speaking Telephone Service Centre and offers a fully bilingual service to the public in Wales. The majority of the Registry's forms and leaflets are available in Welsh.

So far the Registry has submitted two progress reports to the Welsh Language Board for evaluation. The Board commented in December 2000 that the Registry was taking

its duties under the scheme very seriously. It expressed satisfaction with the way the scheme has operated.

16.11 Complaints

The Land Registry has recently overhauled its procedures for dealing with customer complaints.

Before 1998, the Registry itself handled all stages of complaints other than those submitted to the Parliamentary Commissioner for Administration (the Ombudsman). Complaints often remained unresolved for considerable periods.

The Registry's present standard is to acknowledge a complaint on the day it is received and to give a full reply within five working days. If this cannot be done, the complainant is given an explanation for the delay and is told what is being done to overcome it.

In 1999-2000 a total of 2,398 complaints were received. 88% of them were given a full response within the target period.

Local Customer Service Managers record and analyse complaints received and prepare monthly summaries which include action taken and learning points. These reports are used to prepare quarterly/annual summaries for the Registry as a whole.

In 1998 the Chief Land Registrar appointed an Independent Complaints Reviewer (ICR) to supplement the Registry's internal procedures. There is general agreement among those I consulted that this machinery has been a success.

The ICR herself told me that, after some teething troubles following her appointment, the Registry now has a positive perception of her role. The Registry's management sees complaints as valuable management information and has set up a Committee (ICREST) to consider the ICR's reports and the lessons to be learned from them. This Committee recommends and enforces changes in practice and procedures resulting from the ICR's findings.

An internal committee has recently reviewed the Registry's complaints procedures. There is a proposal to ask persons who have gone through the complaints procedure to say whether they have found it satisfactory.

Complainants fall into two main categories: practitioners (including mortgage lenders) and members of the public. The rate of complaint for the period October to December 2000 was less than one per 1,500 cases handled.

The main complaints from practitioners related to delays in processing, failure to respond and failure to keep the complainant informed.

Within complaints by members of the public, a high proportion appear in practice to result from inflated expectations of the complainant's rights and misunderstanding of the general boundaries regime. A significant proportion seem to reflect the frustrations of neighbours with boundary disputes even where no registration issue is involved. Issues other than legal issues are usually resolved at district land registry level.

The complaints procedure now has four main stages. At each stage, the person handling the complaint refers the complainant to the next stage if there is no resolution. The process continues until the complainant indicates that he or she is satisfied or does not wish to pursue the complaint any further.

- *Stage 1.* A District Land Registry staff member normally receives the complaint in the first instance, often by telephone. If he or she cannot resolve it, the case is referred to senior DLR staff.
- *Stage 2.* The District Land Registry's senior staff (usually the Customer Service Manager or one of the legal advisers, depending on the nature of the complaint, but sometimes the Area Manager or District Land Registrar) review the complaint next. If they cannot resolve it, they refer it to Headquarters.
- *Stage 3.* The Registry's Customer Service Manager or the Case Review Team at Headquarters then review the complaint, depending on its nature. If they cannot satisfy the complainant they advise him or her that they are entitled to take their complaint to the ICR or, through a Member of Parliament, to the Parliamentary Commissioner for Administration (the "Ombudsman"). In practice, most complainants opt to go to the ICR.
- *Stage 4.* The ICR considers the case and prepares a report with recommendations, in agreement with the Registry.

If a complainant approaches the ICR directly, without going through the earlier stages, the ICR refers the matter to Land Registry Headquarters first.

Both the Registry and the ICR have a policy to move complaints cases on through the stages rather than let them continue unresolved for long periods. Experience suggests that this is far better, for complainants and the Registry alike. However, some complaints can still remain unresolved for long periods. It is a fine judgement as to when correspondence should be brought to an end, particularly where a customer remains dissatisfied. The ICREST committee intends to consider this aspect further.

If the ICR's recommendations do not resolve the matter, the ICR advises complainants that they still have the option to pursue their complaint, though their Member of Parliament, with the "Ombudsman". Traditionally, the Ombudsman's processes have taken much longer than the ICR processes. With the recent reforms, however, some cases are now being dealt with at comparable speed.

In my opinion, the new complaints procedure accords well with best modern practice. The Registry and the ICR have done well to develop it in the way they have. The only comments I would make, based on points made to me, are:

- *Prevention.* As discussed in the previous section, clearer explanatory material, available in the right places and at the right times, could help to reduce the number of complaints made in the first place.
- *Legal vs non-legal issues.* It may sometimes be helpful to distinguish clearly between the legal and non-legal aspects of the complaint, so that the complainant fully appreciates what the Registry can and cannot do.

- *Practice Manuals*. There would seem to be a case for including a section on complaints in the Registry's Practice Manuals.

16.12 Key performance indicators, KPIs

The Registry's present Key Performance Indicators, reproduced at Box 16.5, are valuable but could perhaps be improved.

Clearly it is important to choose KPIs so as to *focus the business on what matters most*. It must be as certain as the practicalities permit that if the business delivers the KPIs it will be doing a first-class job.

The present KPIs come quite close to meeting this criterion. With certain amendments and additions, however, they might come closer.

Some specific points for consideration are as follows.

- i. *Fee levels*. In my opinion, the KPIs table ought to signal the Registry's concern to keep fees as low as possible consistently with giving a good service. It seems wrong that a KPIs table should say nothing about fees. There are problems, however, in defining a KPI target for fees. Fee levels per transaction or enquiry are sensitive to Government decisions on the trade-off between fee and service levels, market conditions, the mix of transactions and the mix of enquiries. Hence it is barely appropriate to regard the comparison between fee outcomes and projections as a measure of performance. A possible solution may be to show average fees per transaction and average fees per enquiry, for the current and past years, as *memorandum items* at the foot of the table. This would signal that the Registry cares a great deal about fee levels even though they cannot be regarded as measures of performance in the shorter-term.
- ii. *Customer perceptions*. The Registry has done well, in my opinion, to introduce KPIs based on customer ratings as well as output measures. There may however be a case for dropping from the KPIs (if not from the internal indicators) levels of customer satisfaction with speed of service. The process times arguably speak for themselves.
- iii. *Cost per unit*. As discussed in Chapter 17, this indicator, invaluable as it is, does not include quite all costs and is not therefore a substitute for the fees data mentioned above. The real terms cost per unit in the present KPIs conveys no useful information. It would seem better to express it as a percentage change year on year.
- iv. *Service First standards*. The present KPI for the "percentage of all registrations processed within 25 working days" covers delays caused by customers or the Stamp Office as well as by the Registry. A possible solution would be to replace the present indicator by *separate* indicators for *correctly lodged* applications and *all* applications. But there is much to be said for putting the onus on the Registry to promote solutions to the problem of incorrectly lodged applications. The present target based on 25 working days should clearly be drastically reduced as soon as practicable.

- v. *Electronic services.* This will be an increasingly important KPI category. The proportions of the Index Map vectorised and preliminary services requests made electronically might already be added.
- vi. *Spread of years.* The KPIs table should always show performance over a five-year spread of years. It is seldom possible to assess performance sensibly on the basis of the current year's expected outcome and next year's target alone.
- vii. *Accompanying notes.* A full page of Notes explaining the content and significance of each line of the KPIs table, including the standardised output units, should always appear on the page facing the published table.

The table at Box 16.6 table illustrates how a revised KPIs table might look. As suggested in point vii, explanatory notes would appear on the facing page.

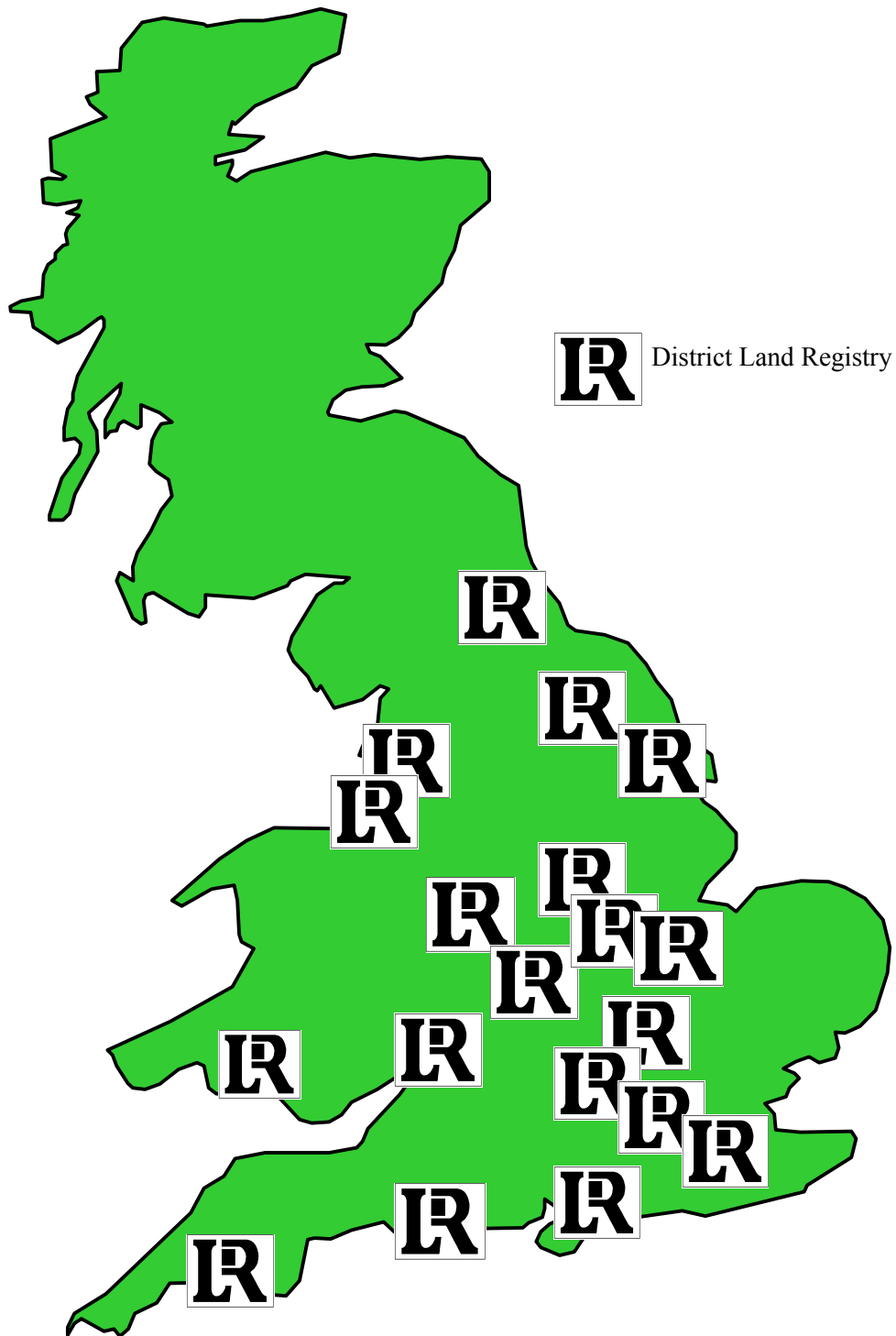
16.13 Stamp duty

The present arrangements for collecting stamp duty seem far from ideal. Both Inland Revenue and Land Registry hands touch most cases. Further expense and confusion arise, moreover, from the present requirements for completion of two forms, often going to different places.

The proposals discussed in Chapter 8 for electronic settlements at completion should solve these problems. In the meantime, the Inland Revenue is already helpfully seeking statutory approval for electronic interpretations of stamping.

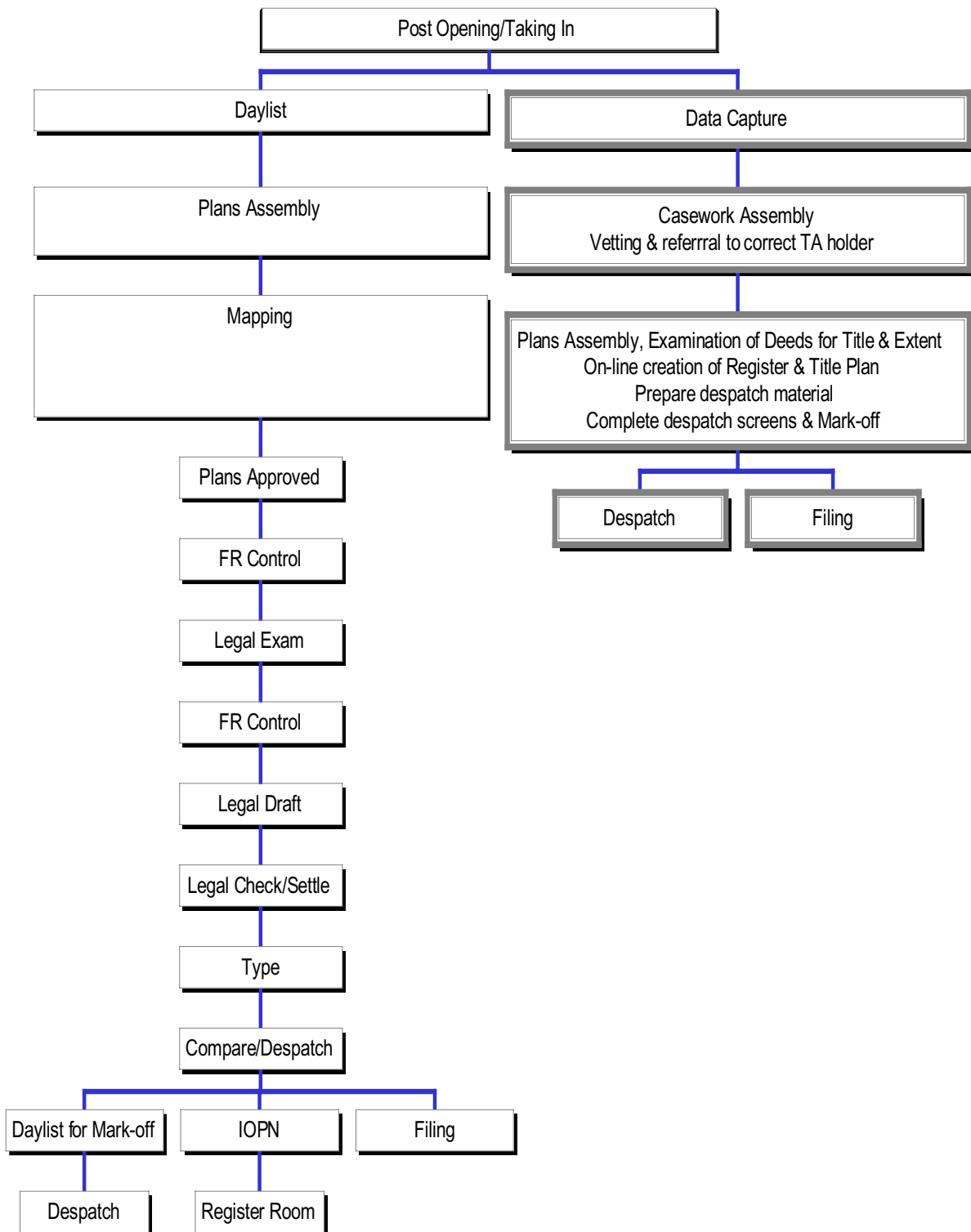
There may be scope ahead of the introduction of electronic settlements for rationalising the stamp duty processes in ways which will also usefully prepare the way for such settlements. The Task Force on e-conveyancing could usefully consider this.

BOX 16.1
DISTRICT LAND REGISTRIES



There are 24 District Land Registries at the 19 locations indicated.
Land Registry Headquarters is based in Lincoln's Inn Fields, London.
The Land Charges Department and Computer Services are based in Plymouth.

BOX 16.2
PROCESSING A FIRST REGISTRATION BEFORE AND AFTER THE
INTRODUCTION OF COMPUTERISATION & COMBINED OPERATIONS



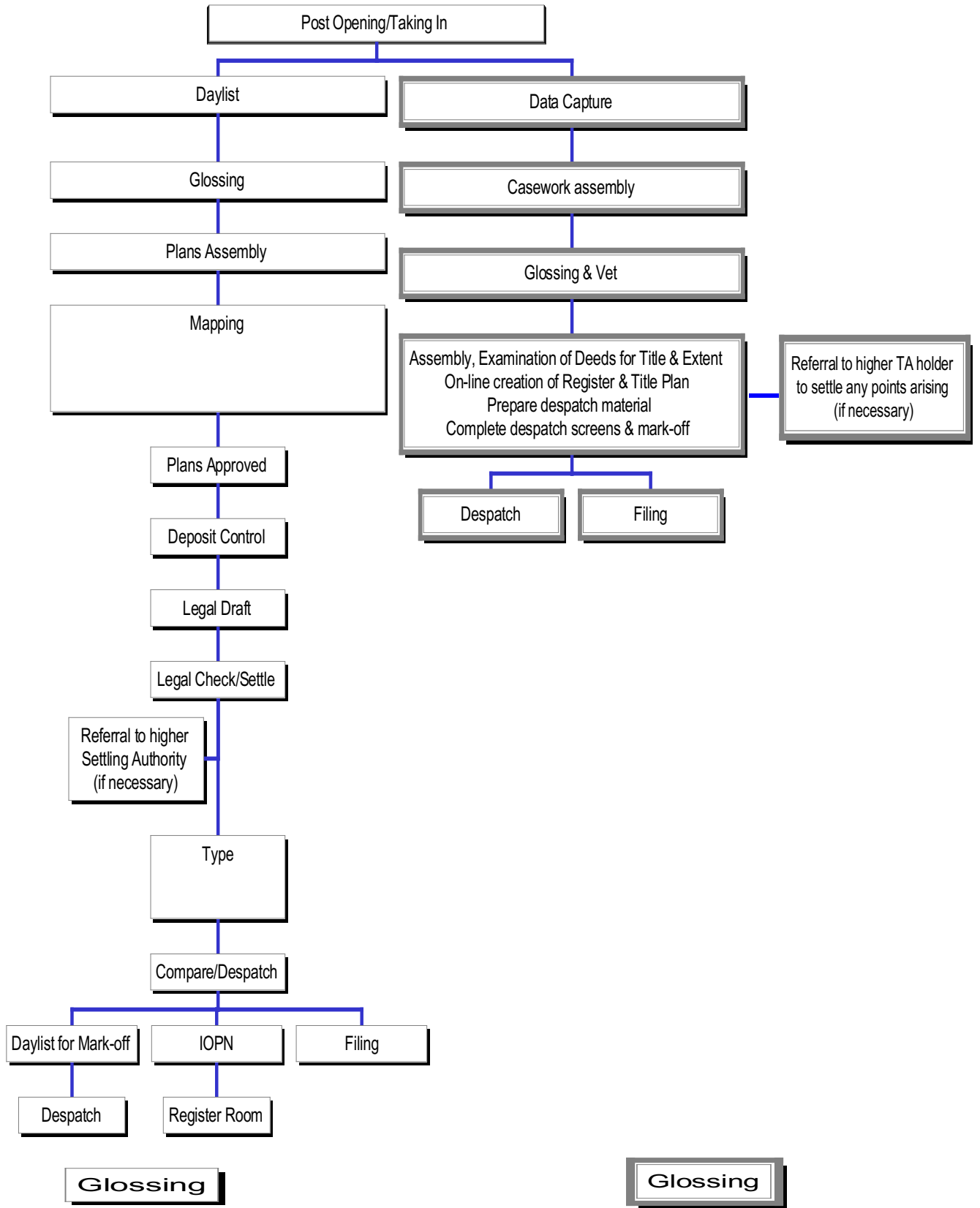
Plans Assembly

Before Combined Operations

Plans Assembly

Using combined operations

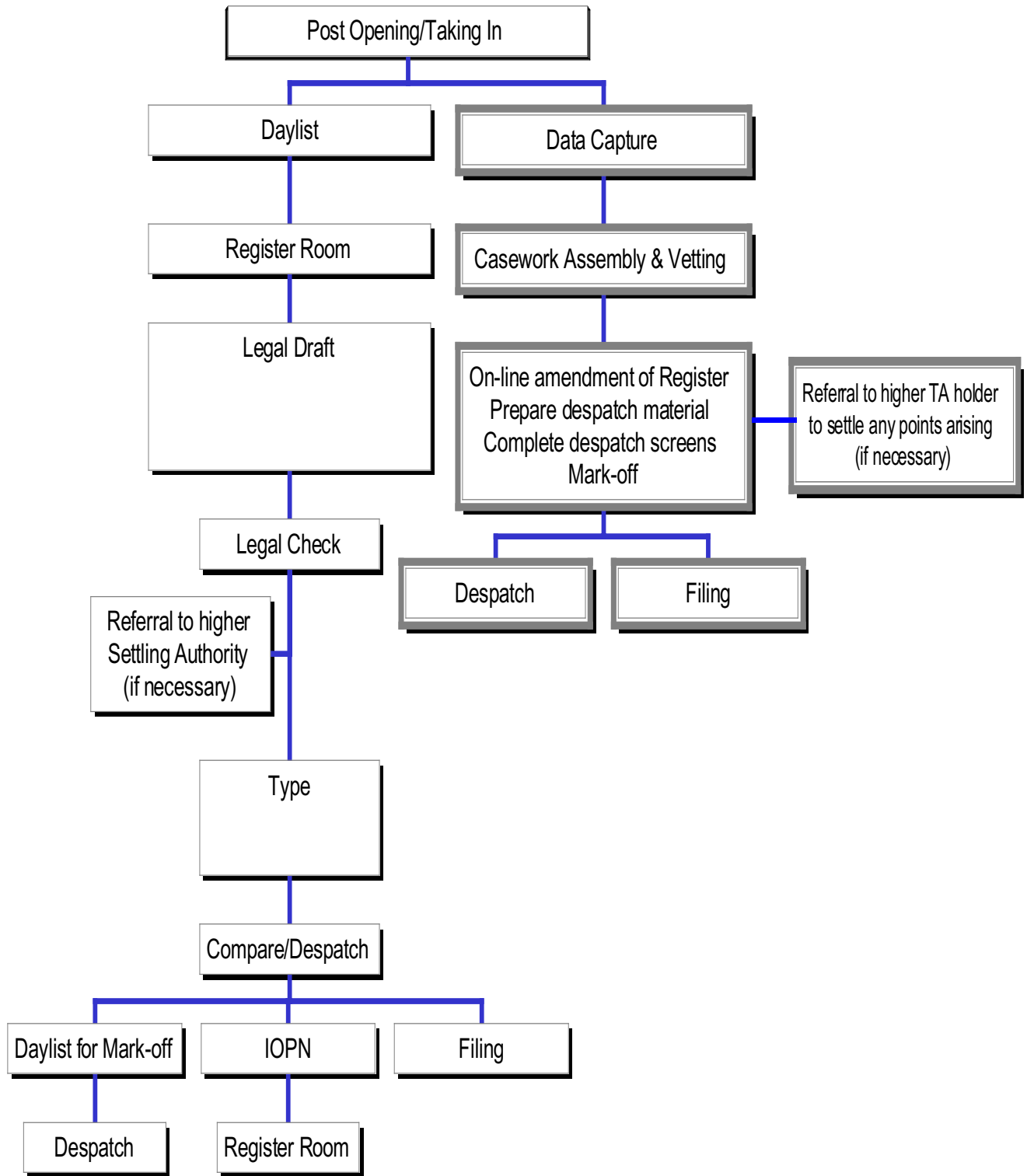
BOX 16.3
PROCESSING A TRANSFER OF PART/DISPOSITIONARY FIRST LEASE
BEFORE AND AFTER THE INTRODUCTION OF COMPUTERISATION &
COMBINED OPERATIONS



Before Combined Operations

Using combined operations

BOX 16.4
 PROCESSING A DEALING BEFORE AND AFTER THE INTRODUCTION OF
 ON-LINE DRAFT



Despatch

The manual process

Despatch

After introduction of On-line Draft

BOX 16.5
KEY PERFORMANCE INDICATORS AND TARGETS 2000-01

	Target 2000-01
Financial	
Percentage return on average capital employed.	6
Efficiency	
Cost per unit in real terms.	£25.09
Cost per unit in cash terms ¹	£30.63
"Service First" Standards	
Speed	
Percentage of office copy and official search applications processed within two working days <i>and</i>	98
Percentage of office copies and official search applications processed within three working days.	100
Percentage of all registrations processed within 25 working days.	80
Accuracy	
Percentage of registrations processed free of any error.	98.5
Delivery of Electronic Services	
Percentage of dealings (key customer interactions) capable of electronic delivery.	50
Percentage of titles in the land register capable of electronic delivery.	96
Percentage of title plans in the land register capable of electronic delivery.	all
Number of scanned pages of filed documents (millions).	11

1. Based on GDP deflator issued by HM Treasury on 21 December 2000.

BOX 16.6
KEY PERFORMANCE INDICATORS AND TARGETS
Possible alternative list

1996- 97	1997- 98	1998- 99	1999- 2000	2001- 02
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Financial return

1. Return on average capital employed, %

Customer perceptions of services

2. Proportions of customers, % ,
 - (a) Satisfied or very satisfied with services
 - (b) Satisfied or very satisfied with accuracy

Efficiency

3. Cost per standardised unit (CPU), £
4. Reduction in CPU, real terms, year on year, %

Accuracy of services

5. Proportions of registrations processed free of error, %

Speed of services

6. Proportions of office copies and official search applications, % , processed within
 - Two working days
 - Three working days
7. Proportion of *all* registration applications processed within 20 working days, %
8. Average processing time for all registrations (working days)

Electronic delivery of services

9. Proportions, % , available electronically of:
 - (a) Registered Titles
 - (b) Registered Title plans
 - (c) Scanned pages of Register Referred documents
10. Proportions, % , of:
 - (a) Registration applications made electronically
 - (b) Searches & office copy requests made electronically
 - (c) Index Map vectorised

Memorandum items (not monitored as performance indicators)

- Average fee per transaction
- Average fee per enquiry

17 FINANCIAL STRATEGIES AND STRUCTURES

17.1 Introduction

This Chapter looks at some of the main issues arising on the Land Registry's financial arrangements. It does not purport to offer a comprehensive review of this area.

17.2 Trading Fund status

The Land Registry was established in 1993 as a Government Trading Fund under the Government Trading Funds Act, 1973, as amended, and has continued to have Trading Fund status since that time.

Consistently with this, the Registry is obliged:

- to keep its accounts on an accruals basis,
- to cover its expenditure from fee income,
- to earn in addition a return currently set at 6 per cent on average capital employed, and
- to pay a dividend of this same amount annually to the Treasury, one year in arrears.

The Registry's income consists of statutory fees charged for services provided. Since acquiring Trading Fund status in 1993, the Registry has earned a certain amount of interest as well on accumulated surpluses.

The Registry needs also to operate within the provisions of the Land Registration Act 1925, as amended, when spending money and setting fees.

17.3 Implications for public expenditure totals

In accordance with the intentions of the Trading Fund regime, the Registry's activities have only a limited impact (albeit some impact) on the public expenditure totals.

From 1 April 2001, when the new resource accounting and budgeting regime takes effect, the position will be:

- i. The Registry's profits before dividends will score in the Lord Chancellor's Departmental Expenditure Limit (DEL) as negative expenditure (and losses, similarly, as expenditure).
- ii. The Registry's gross capital expenditure will score in the Capital Expenditure Budget as part of public sector investment.
- iii. The gross capital expenditure (but not the profits or losses) will continue to score in Total Managed Expenditure, which is defined in accordance with international conventions.

- iv. Dividends and repayments of cash reserves will score as intra-public sector transfers and will not affect the public expenditure totals.

17.4 Corporate and Business Plans

In accordance with the normal procedures for Executive Agencies and trading funds, the Registry produces a Corporate Plan and Business Plan every year.

The Corporate Communication and Strategy Group takes the lead in preparing these Plans and co-ordinates discussion of them with individual areas of the Registry. The Registry's Board then approves them for submission to the Lord Chancellor.

Lord Chancellor's Department officials submit the Land Registry's Business Plan in March each year for approval by the Lord Chancellor and then by the Treasury.

In my opinion, the Registry's Business Plans are set out very clearly. The processes for developing the plans and obtaining approval seem to work smoothly.

In accordance with the standard procedure for Executive Agencies, the Business Plans set out the Registry's aims, objectives and principles, related action points and the key performance targets for the year ahead.

In accordance with the standard procedure for Trading Funds, they set out a projected balance sheet for the end of the forthcoming year and projected income and expenditure and cash flow accounts for the forthcoming year.

The Business Plan for the current year projected trading income of some £283.5 million, expenditure of some £269.7 million, and a dividend payment of some £13.8 million. Interest received was projected at £4.1 million and this same amount was planned as a retained surplus.

17.5 Unit Costs and efficiency

For the Land Registry, as for any other public sector organisation that is in effect a monopoly supplier financing itself from fees, it is essential to develop a robust methodology for ensuring that the organisation delivers good value for money as well as high standards of service, and that it increases its efficiency over time.

The Registry and the Treasury have together developed a convenient overall cost per unit calculation for this purpose. The cost per unit seems to me reasonably robust as well as being an invaluable tool of management.

The cost per unit is calculated by dividing the Registry's operating expenditure by the number of specially defined standard "units" of output delivered. Efficiency growth can then be measured as the change in cost per unit *less* the rate of inflation.

To elaborate a little, the methodology assigns

- a single output “unit” to the commonest element in the Registry’s casework, changing an existing title or “dealing of whole”,
- more units to more complicated operations and processes, such as complicated and time-consuming operations, such as processing first registrations of previously unregistered titles or splitting one title into two, and
- fractions of a unit to searches, office copies and preliminary services.

Box 2.2 shows the number (or fraction) of units presently assigned to each of the main operations and processes.

The Registry’s operational expenditure within a given period, is then divided by the total number of output units, so calculated, actually delivered within the period, to give an overall “cost per unit”. Box 17.3 sets out the calculation in more detail.

The growth or reduction in cost per unit from year to year can then be adjusted for inflation, measured by the GDP deflator, to give a measure of the annual increase or reduction in efficiency.

In cash terms, based on the GDP deflator forecast of 7 March 2001, the cost per unit target for the current year is £30.55. The annual rate of efficiency improvement over the 6 years since 1994-95, as measured by the reduction in the cost per unit in real terms, has averaged 3.8 per cent. The targets and outcomes, year by year, have been as shown in Box 17.4.

Looking ahead, the latest cost per unit target agreed with the Treasury implies an average rate of efficiency improvement of some 3 1/2 per cent between 2000-01 and 2004-05 after significant investment in the IT infrastructure contract. The target is expressed in terms of the level of efficiency to be achieved in 2004-05. The intervening years are regarded only as milestones.

As a general rule, it is better not to change the components of the unit cost calculation from year to year. The Land Registry discussed the calculation with Treasury in February. The Treasury has said, however, that it is willing to discuss any further possible changes in case of need.

17.6 Annual Report and Accounts

The Registry’s Annual Report and Accounts are likewise presented in what seems to me an exemplary way. The Registry won the tenth and final PricewaterhouseCoopers award for best Agency Report and Accounts for 1998-99.

The Registry likewise has a commendable policy to publish the Annual Report and Accounts smartly after the end of the financial year. Consistently with this, the Registry published its accounts for 1999-2000 in July 2000.

The Income and Expenditure Account and the Balance Sheet from the Report and Accounts for 1999-2000 are at Boxes 17.1 and 17.2.

Audit staff from the Lord Chancellor's Department conduct an independent review each year of the Land Registry's auditors' validation of the Registry's reported performance against Key Performance Indicator targets.

17.7 Accounting systems

The Registry's present accounting system, though serviceable, is less effective and less helpful in terms of business management than the Registry will need in the years ahead.

The Registry has therefore launched the procurement process for a new business and accounting software system.

As part of the Quinquennial Review, Deloitte and Touche were commissioned to undertake an independent review of suppliers' proposals.

The Deloitte and Touche Report has confirmed that the procurement exercise has been efficiently conducted. It helpfully confirms that the systems on offer would all meet the Registry's needs, as defined, while analysing some particular strengths and weaknesses and identifying areas for special consideration in the final stages of the procurement process.

The Report emphasises the need to select a business solution, not just a financial system, and recommends employment of an implementation partner.

17.8 Payment systems and credit accounts

The Registry handles large volumes of payments in and out. The annual figures are running at approximately the following levels:

Receipts of fee Income:	2,840,858
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Payments out:	20,334
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The annual banking charges for handling these transactions are £71,600 for receipts and £288 for payments out.

The Registry has made substantial efforts to contain the costs of these transactions.

With regard to payments out, the Registry is now making significant savings from paying more than half its low-value transactions with the Government Procurement Card. There may be scope for increasing the proportion paid in this way.

With regard to the more serious issue of receipts of fee income, the Registry has different systems for substantive applications for changes in the Register, on the one hand, and Register "searches" and other preliminary services, on the other.

For *substantive applications*, the Registry requires that most applications be accompanied by a cheque in payment. The Registry received 2,840,858 cheques in year ended 31 March 2000.

The Registry has negotiated very favourable arrangements with the banks for handling these cheques. But the administrative costs for the District Land Registries in receiving the cheques, checking the amounts, noting that they have been received and bundling them up for delivery to the banks, are substantial.

A further problem is that the cheques are quite often made out for the wrong amounts. The Registry is involved in significant extra expense as a result of having to sort these errors out.

As discussed in Chapter 8, the preferred solution for the medium-term will be for such payments to be made electronically as one of the elements in e-conveyancing. The electronic programme should not only remove most of the administrative costs but also ensure that the correct amounts of money are received.

In the shorter-term, the question is whether the Registry can arrange with the banks some form of interim arrangement which would largely remove the need for cheques and the scope for errors, save money, and pave the way for full electronic transfer of funds later. Such an arrangement might take the form of direct debiting by the Registry, supported by monthly transaction printouts, of deposit accounts established by practitioners. This would naturally require discussion with the relevant professional bodies all of whom have rules concerning the operation of accounts.

Payment by BACS would be another possibility. But this would not remove the burdens of ensuring that payment for an application has been received and correcting errors in the amounts transmitted.

The Finance Division needs, in my opinion, to pursue the possibility of an interim solution, possibly based on direct debiting of practitioner deposit accounts, with the banks in consultation with the Task Force on e-conveyancing.

For *searches and other preliminary services*, the Registry introduced in 1982 a system of credit accounts for practitioners, payable monthly in response to itemised bills. There are now 16,160 such accounts. Most, but not all, preliminary searches are now paid for in this way. These include telephone searches and use of LR Direct.

The use of credit accounts spares the Registry from having to handle an even greater number of cheques than for substantive applications. The Finance Division scrutinises applications for credit accounts. There remains, however, some risk of default especially from conveyancers winding up their businesses.

If the Registry is able to introduce a system for direct debiting of fees for substantive applications, there may be scope for extending this system to searches and other preliminary services as well.

17.9 Fee levels and structures

(a) Statutory position

Even more important, perhaps, than the means of payment of fees are the fee levels

and structures.

For buyers and sellers of domestic properties, in particular, Land Registry fees may be a significant element in their total costs. For the Land Registry itself, fee income is the only means it has to finance its activities.

The Land Registry Act 1925 and Fees Orders made under it provide a statutory framework for setting fees. The framework provides for three main categories:

i. Scale 1 fees: transactions for monetary consideration

Payable by the purchaser, these fees apply to all transactions for monetary consideration and to all applications for first registrations of previously unregistered properties. There is, however, a reduced fee for “voluntary” first registrations [not associated with a transaction].

The statute requires that fees be set by reference to the value of the property. In practice, the fees are set (like Council Tax) in bands. There is effectively, therefore, an upper limit. See Box 17.5.

ii. Scale 2 fees: transactions where there is no monetary consideration

Paid by the recipient, these fees apply especially to gifts or legacies of land and property. As Box 17.5 indicates, the levels of fee are lower and there are fewer bands.

iii. Fixed fees

For preliminary services, such as searches of the Register, provision of office copies of documents and the noting of cautions on the Register, the fees are fixed.

Fees for leases are calculated by converting rents and premiums into a single value against which the scale fees are applied.

The legislation provides no basis for waiving fees, except fixed fees. It does, however, define some services, such as discharges of registered charges, which are exempt from fees.

(b) Present fee schedules

The Land Registry has reduced fees by 40 per cent since 1993. This reduction is calculated by comparing the income generated each year under the current Fees Order with what it would have been under the new Order. The table in Box 17.5 shows the levels proposed for the principal fee categories from 1 May 2001.

As the table indicates, the fixed fees for searches and other preliminary services are very modest, while the variable fees for substantive applications range up to £800.

(c) *Main principles*

In considering present fee levels and structures, there are several important principles that need to be borne in mind:

- i. *Registry solvency.* The level and pattern of fees have to be such that the Registry can cover its costs overall without calling on the taxpayer.
- ii. *Fees to reflect costs.* In accordance with the established rules for fees and charges, the level of the fees ought to reflect the costs of providing the particular service.
- iii. *Fees to reflect the Registry's guarantee and indemnity.* The costs reflected in the fees need to allow for the risks the Registry takes in guaranteeing ownership and paying indemnities in case of need. The Registry's willingness to provide such guarantees is tremendously valuable for owners. The more valuable the property, moreover, the more valuable the guarantee.
- iv. *Fees to encourage efficiency.* The costs reflected in the fees ought in principle to reflect the costs which inefficient providers heap on the Registry as well. Otherwise efficiency will be discouraged and inefficiency encouraged.
- v. *Fees to reflect affordability.* There is a case for trying to set fees at levels that people will feel they can afford. This may point in particular to charging lower fees to people who are not engaged in any financial transaction such as buying or selling. For the buyer, the fee is a small addition to the purchase price. For someone who already owns a property, there are no associated financial flows within which the fee can be absorbed.
- vi. *Fees to encourage registration.* The Government may want to encourage (or not discourage) first registrations of previously unregistered properties and to avoid heaping high charges on to owners who are compelled to register their properties. These considerations point to keeping down the fees for first registrations, even though they are typically much more expensive to process than other cases.
- vii. *Fees that can realistically be collected.* Sophisticated fee schemes involving a mixture of service charges and insurance premiums may be conceptually sound but not very practicable.

Principles (i) to (iv) are all mutually consistent. Principles (v), (vi) and (vii), on the other hand, tend to conflict with Principle (ii). But the conflict is not so serious, perhaps, as to require Principle (i) to be revisited. It still seems reasonable to look to those who conduct transactions in land and property to pay for the costs of the registration system.

(d) *Possible improvements*

The present fee structure, summarised in Box 17.5, strikes a particular balance between the above principles, while respecting the statutory requirements mentioned

earlier.

In my opinion the present structure seems broadly defensible, bearing in mind that the conflicting principles and the practicalities both preclude a “perfect” structure.

There may, however, be scope for some improvement. Some points for consideration in this connection are:

- First, there is clearly some *cross subsidy* between first registrations and “dealings” such as transfers of ownership of properties already registered. The Public Accounts Committee agreed in 1991 that this was reasonable.

For the reasons sketched in Principle (vi) above, the fees for first registrations fall short of costs by a considerable margin. The fees for the much larger category of “dealings”, on the other hand, probably exceed the direct costs by a certain margin.

On a sensible interpretation of the value of the guarantee, the fees for “dealings” probably still lie within the margins of what is reasonable.

That said, the fees for “dealings” do seem rather high in relation to the work they require. In my opinion, therefore, the “dealings” fee should be the first to be reduced when any reductions in fees can be made.

There would also be some argument for spreading the subsidy for first registrations across users of preliminary services as well as “dealings” applicants.

- Second, proprietors pay towards the Registry’s invaluable no-fault guarantee and indemnity policy *in proportion to the number of times they move*. It would arguably be more rational to cover the costs of the guarantee from an annual charge on proprietors. That, however, would involve collecting fairly small contributions from all proprietors every year. The expense of this would not seem justified.
- Third, the “*maximum*” fee which the banding system introduces is arguably irrational, especially if the fee is seen mainly as an insurance premium. In practice, the fee is both a service charge and an insurance premium. Arguably it would better comprise a standard service charge, broadly reflecting the costs of the particular type of transaction, *plus* an ad valorem insurance premium without upper limit. The new Land Registration Bill would need to include powers to enable such changes to be made.

In my opinion an approach on these lines would have some merit. It would however be more complicated.

- Fourth, the fee structure could be adapted in several ways so as *to encourage efficiency by users of the service*.

As discussed in Chapter 5, more than 50 per cent of applications include some

error. The Registry incurs substantial costs in dealing with these errors, and users whose applications are correct have to bear the cost as well. In principle, there is a case for charging for requisitions or giving discounts to users who do not make errors. In practice, the advent of e-lodgement (as a first pillar of e-conveyancing) should largely prevent the commonest errors from being made. It may no longer, therefore, be worth while introducing an interim system on these lines.

Other ways of encouraging efficiency would seem more practicable, even in the shorter term. The Registry could, for example, encourage users to use cost-effective forms of communication by making written applications more expensive than they already are in relation to telephone and electronic applications.

In summary, then, no fee structure will be perfect. But the present structure could arguably be improved by

- i. reducing the fees for “dealings”, when practicable,
- ii. spreading the cross-subsidy for first registrations across preliminary searches, currently very cheap, as well as dealings, and
- iii. more differentiation of fees so as to encourage efficiency and cost-savings.

It would be useful to seize the opportunities which successive Fees Orders provide to make such improvements. In addition, the new Land Registration Bill should preferably explicitly give the Registry more flexibility in setting fees.

17.10 Indemnity Fund

As discussed in earlier Chapters, the Registry provides a guarantee that owners of nearly 18 million out of perhaps 23 million properties throughout England and Wales have good title to their properties. The Registry stands ready to pay indemnities to those who can show that they, and not the registered owners, are the true owners. This indemnity is payable, moreover, regardless of whose fault the incorrect Register entry was. The Registry’s practice is to pay the indemnity and then to seek recovery from those who were at fault if such can be identified.

The Registry protects in a similar way the rights of others, as well as owners, who have rights in or over the land, notably lenders and creditors.

As a practical matter, the Registry has managed the registration process with such skill and care over the years that payments of indemnity, net of recoveries, have been minuscule in relation to the enormous value, possibly some £1,500 to £2,000 billion, of the properties registered.

Annual payments of indemnity, net of recoveries, have averaged some £1.7 million over the past 10 years. The table in Box 17.6 gives the figures for recent years. The high figure of £5.1 million in 1992-93 arose from a large single claim of £3.65 million paid in that year, where the Land Registry was bound to give effect to a Court order. The Court order had been acquired fraudulently. The fraudster was convicted of a number of offences of dishonesty and sentenced to seven years’ imprisonment.

Minuscule as payments of indemnity have been, the past is not an infallible guide to the future. The Registry faces a very small risk of having to pay out gigantic sums and a rather greater risk of having to pay out large sums as a result of some extensive fraud.

Although ultimately the Government stands behind the Registry, it is clearly important that the Registry should be able to pay out such claims, if they should arise, from its own resources rather than have to ask the Government and Parliament for extra provision.

With this in mind, the Registry's balance sheet includes an Indemnity Fund. This represents sums that the Registry has retained on the balance sheet, and in cash balances, instead of paying to the Treasury in the form of dividends or repayment of reserves.

At March 2000, the Fund stood at just over £4 million. The question which arises is whether the £4 million is sufficient.

In my opinion, a higher figure would be preferable.

It would barely be practicable, or sensible, to have a fund (or capital resources) such as a private sector insurer would doubtless think necessary in relation to an exposure potentially so huge.

On the other hand, there would be good sense from the point of view of creating confidence on the one hand and minimising the risk of having to seek a subvention from Parliament on the other, in pitching the level of the Fund at a level well above the highest annual pay-out in recent years.

In practice, the Financial Reporting Standards used by the Registry in agreement with the Treasury would not permit a significantly higher level of provision. The Standards used are based on those for normal trading companies. These are designed, among other things, to prevent companies from making excessive provisions so as to spread tax burdens unreasonably from one year to another.

It seems questionable, at least, whether the Standards used are altogether appropriate for a body like the Registry, a major part of whose business consists in insuring owners' titles and lenders' charges. There may be a case for considering whether the Registry's financial reporting should be based, in part at least, on the principles of an insurance SORP instead so as to permit a higher level of indemnities provision.

Whatever the conclusion on that may be, the Registry's contingent liability to pay indemnities clearly argues for *retaining cash balances at a level substantially above what would otherwise have been necessary*.

As discussed earlier, there is no penalty in terms of the public expenditure totals in retaining such balances.

17.11 Accumulation of reserves

The Registry has accumulated substantial reserves and cash in recent years. These have resulted from a combination of prudent budgeting and efficiency improvements.

It has been agreed in recent exchanges between the Lord Chancellor and the Treasury that the Registry will repay its “excess” cash reserves to the Treasury.

In my opinion, the amount of the repayment that can prudently be made will need to be considered carefully with the following factors in particular in mind:

- the agreed policy to finance digitisation of the Index map from the reserves,
- the need to retain adequate working capital, and
- the case, discussed in the previous section, for increasing the Indemnity Fund if possible and anyway for preserving cash balances at prudent levels.

It will be important to achieve at the same time a good understanding about the future use of reserves by the Registry and the financing of capital and development expenditure. Section 17.13 discusses this further.

17.12 Financing expenditure on vectorisation of the Index Map, VIM

The Lord Chancellor’s agreement that the Land Registry should repay its excess cash reserves to the Treasury formed part of a wider agreement with the Treasury under which the Registry would be permitted to finance vectorisation of the Index Map, VIM, from reserves.

As discussed in Chapter 6, the Lord Chancellor and the Registry wished to spend some £20 million over three years on the VIM project.

The expenditure concerned is not capital expenditure. It is development expenditure on staff time together with some IT expenditure. Particular features of the expenditure are that:

- initially at least, it will generate no revenue stream from customers,
- the initial benefit will be internal to the Registry (in enabling staff to process applications and searches more quickly), and
- this benefit will be spread over many years.

In the view of the Lord Chancellor and the Registry, it was not quite fair to ask fee-paying customers of the Land Registry over the following three years to finance expenditure with these features when the Registry had substantial accumulated reserves that could in principle be used for this purpose.

The Lord Chancellor's and the Registry's legal advisers, moreover, had some qualms as to whether it would be consistent with the Land Registration Act 1925, as amended, to finance this expenditure in this way.

The Treasury agreed in December 2000 that the VIM project could be financed from reserves as part of a wider deal under which the Registry would pay over the rest of its excess cash reserves to the Treasury.

As a matter of practical accounting, the only way in which the Registry can finance the VIM programme from accumulated reserves is by running an overall loss on income and expenditure account *after* payment of dividend. As discussed earlier, any loss the Registry makes *before* payment of dividend will increase expenditure under the Lord Chancellor's Departmental Expenditure Limit.

The programme is estimated to cost around £20 million over the next three years. The losses shown in the annual Business Plans will therefore need to be around £4.3 million in 2001-02, as vectorisation is due to begin part way through the year, followed by around £7 million a year for the following two and a half years.

The presentation of these losses will need to bring out clearly that the Registry fully intends to continue to make a return of 6 per cent on capital in respect of its mainstream operations.

17.13 MOU on future financial regime

The protracted discussions between the Land Registry and the Treasury that delayed the Index Map vectorisation project for three years have highlighted the need for clarity as to the Registry's future financial regime. The complexities of Resource Accounting and Budgeting have made this more than ever necessary. The present regime also makes no provision for flexibility between years.

The Lord Chancellor suggested in the autumn that the present Review should make some suggestions accordingly for all the Departments concerned to consider.

In my opinion, the Treasury and the Registry should agree a Memorandum of Understanding which sets out clearly what the future financial regime will be. The Treasury has agreed to consider such a Memorandum.

The new regime will clearly need to respect both the Treasury's concerns to protect the public expenditure totals, within an acceptable accounting framework, and the Registry's concern to manage its affairs sensibly and to implement a sensible programme of improvement and customer service along the lines sketched in earlier Chapters.

In my opinion, the new regime will need specifically to cover

- agreement on business plans
- financing capital and development expenditure from fee income in-year

- a limited flexibility between years
- implications for the Lord Chancellor's other Departments, and
- the level of cash reserves.

The Appendix to this Chapter offers a fuller analysis of the problems with the present regime and sets out more fully my suggestions for a possible new regime.

In my opinion the firm aim should be to reach agreement on a new regime within the next month or two. The present uncertainties help no one. The matter should not be postponed until the next Comprehensive Spending Review.

The proposed new Land Registration Bill, and Rules made under it, will need to be framed in such a way as to permit the Registry to act in accordance with the agreed regime. So far as I am aware, no change is likely to be needed in the Trading Funds legislation.

17.14 Finance Division

The Registry's Finance Director oversees a Financial Controller and four finance sections containing 39 full time staff in total. All sections report to the Financial Controller.

- Financial Accounting, with 18 staff, looks after the Registry's commercial accounting, including the accruals accounts, cash, fees and payments.
- Budgeting and Planning, with 11 staff, looks after business planning, human and other resources planning, monitoring and activity-based budgeting.
- Credit Control, with 4 staff, looks after the Registry's credit accounts, including suspension of defaulting customers, debt recoveries, collection and tracing, and also corporate planning.
- Projects and Systems, with 6 staff, looks after business cases for investment and financial systems developments.

The Finance Division as a whole includes 9 qualified accountants (including the Finance Director and Financial Controller).

So far as I am aware, the Registry's finance division works effectively. The present Review has not, however, looked at the division in any depth.

The Finance Director has arranged, very sensibly in my opinion, to commission a Review of the division after the contract, discussed above, for a new accounting software system has been awarded.

An on-going arrangement for benchmarking the Division's work against that of similar divisions in other organisations, both public and private sector, would likewise, I believe, be helpful.

17.15 Internal Audit

The Registry has what seems to be a highly effective internal audit team consisting of the Head of Internal Audit and 9 staff, all either qualified already in internal audit or in the process of obtaining qualifications.

The Head of Internal Audit reports to the Deputy Chief Executive. The Chief Land Registrar and Chief Executive chairs the Audit Committee. This seems to me a good arrangement.

The Internal Audit Team has recently given priority, rightly in my opinion, to helping the Registry to manage risks. A major task each year is to rank, assess and examine the major risks to delivery of the Registry's strategic targets. Key areas in this connection include:

- e-conveyancing
- the management of guarantees and indemnities
- collection of fees
- new IT projects and
- corporate governance.

The Team also attends closely to areas and processes where the risk of fraud is significant.

Again rightly in my opinion, the Head of Internal Audit is also seeking to recruit an additional IT specialist so as to deepen the Team's expertise in the area of IT.

BOX 17.1
INCOME AND EXPENDITURE ACCOUNT, 1999-2000

For year ended 31 March 2000

	2000 £ '000	1999 £ '000
Fee Income	291,977	238,914
Cost of Service	<u>231,385</u>	<u>215,224</u>
Gross Surplus	60,592	23,690
Administrative Expenses	<u>18,337</u>	<u>17,089</u>
Operating Surplus	42,255	6,601
(Loss)/profit on disposal of fixed assets	(105)	3,030
Interest Receivable	<u>6,172</u>	<u>5,904</u>
Surplus for the Financial Year	48,322	15,535
Dividend Payable	<u>13,467</u>	<u>11,862</u>
Retained Surplus for the Financial Year	<u><u>34,855</u></u>	<u><u>3,673</u></u>

BOX 17.2
BALANCE SHEET AS AT 31 MARCH 2000

	2000 £ '000	1999 £ '000
Fixed Assets		
• Tangible Assets	142,229	134,451
Current Assets		
• Stocks	5,287	5,618
• Debtors	12,567	10,901
• Cash at bank and in hand	146,079	102,202
	163,933	118,721
Current Liabilities		
• Creditors - amounts falling due within one year	(61,751)	(49,825)
Net Current Assets	102,182	68,896
Creditors		
• Amounts falling due after more than one year	(5,929)	(6,382)
Net Assets	238,482	196,965
Financed by:		
Provision for		
• Indemnity Fund	4,025	3,825
Capital and Reserves		
• Public Dividend Capital	61,545	61,545
• Revaluation Reserve	20,345	13,883
• Income and Expenditure Account	152,567	117,712
	238,482	196,965

BOX 17.3
COST PER UNIT CALCULATION
(with effect from 1 April 2000)

Cost per unit (CPU) is defined as operating costs (OC) divided by units of workload completed (WU):

$$\text{CPU} = \frac{\text{OC}}{\text{WU}}$$

Operating costs are calculated as:

Total costs (excluding capital expenditure)

LESS:

Indemnity costs

Costs of introducing commonhold registration

Index Map vectorisation costs

Costs of introducing e-conveyancing

Workload units are calculated as explained in section 17.5 and Box 2.2.

There would be a case for including the last two categories of excluded cost in the calculation but spreading them over several years. Under the Financial Reporting Standards, however, these costs have to be written off in the year when they are incurred since they will generate no additional fee income.

BOX 17.4
ANNUAL RATES OF EFFICIENCY IMPROVEMENT, PER CENT

Year	<i>Target</i>	<i>Outcome</i>
1995-96	1.7	5.4
1996-97	3.0	1.5
1997-98	4.2	2.0
1998-99	2.9	3.2
1999-2000	3.0	8.2
2000-2001	2.7	2.7 (forecast)
Average annual improvement, 1994-95 to 2000-01	NA	3.8
Target for average annual improvement, 2000-01 to 2004-05	3.5	NA

BOX 17.5
FEE PROPOSED IN LAND REGISTRATION FEE ORDER 2001

Scale fees for applications for registration (£)

Value or amount of consideration	Scale 1 fees, For transactions with monetary consideration	Reduced fees for voluntary first registrations	Scale 2 fees, for transactions with no monetary consideration
0 – 40,000	40	30	40
40,001 – 70,000	60	45	40
70,001 – 100,000	100	75	40
100,001 – 200,000	200	150	50
200,001 – 500,000	300	225	70
500,001 – 1,000,000	500	375	100
1,000,001 and over	800	600	200

Fixed fees (selected) for applications for registration (£)

*No fixed fee payable if accompanied by a scale fee application

Cautions, notices, restrictions or inhibitions: Up to three titles	40
Each subsequent title	20
Closing a leasehold or rentcharge title not on surrender *	40
Converting a title *	40
Lost or destroyed land or charge certificate Replacement certificate issued	40
Replacement certificate not issued	20
First registration of a rentcharge	40
Cancelling notice of a rentcharge per title *	40
Outline applications Using LR on-line services	2
By any other means	4

Fixed fees (selected) for searches and other services (£)

Official search of Register using LR on-line	2
Any other official search or a search made by telephone	4
Search of Index Map Up to 10 titles disclosed or not registered	No fee
More than 10 titles disclosed – for each title over 10	4
Index of Proprietors' Names search – per name	10
Inspection by means of LR on-line services – per title Register or documents referred to in Register	2
Title Plan	3
Office copy – per title Register or documents referred to in Register	4
Title Plan	4
Copy of an Index Map section	40

No fee payable (selection)

- Changing name and/or address of anyone referred to on Register.
- Registering death of a joint proprietor
- Discharge of a registered charge
- Registering a notice or renewing a caution or notice pursuant to the Family Law Act 1996
- Approving an estate plan layout plan or any draft document with or without a plan.

BOX 17.6
PAYMENT OF INDEMNITIES, 1990-91 TO 2000-01
£ million

Year	Gross Payments	Recoveries	Net Payments
1990-91	£975,409	£1,398	£974,011
1991-92	£1,166,764	£6,000	£1,160,763
1992-93	£5,093,849	£2,694	£5,091,155
1993-94	£1,521,836	£1,640	£1,520,196
1994-95	£1,414,462	£122,240	£1,292,222
1995-96	£1,267,720	£64,096	£1,203,650
1996-97	£1,935,902	£18,440	£1,917,461
1997-98	£1,684,442	£7,751	£1,676,691
1998-99	£1,400,683	£1,980	£1,398,703
1999-2000	£1,107,181	£215,676	£891,504
Average of above	£1,756,824	£44,191	£1,712,635

HM TREASURY AND HM LAND REGISTRY:
SOME SUGGESTIONS FOR A NEW FINANCIAL REGIME

Introduction

In my opinion, the present regime of financial arrangements between the Treasury and the Land Registry needs to be developed and codified so as to give the Registry more flexibility to manage its affairs sensibly while fully respecting the Treasury's concern for public finances generally.

Trading Funds were introduced in 1973, and later extended to certain service providers in the context of the Next Steps initiative, so as to enable the bodies concerned to operate in a sensible way, based on their expenditure net of fees and charges and taking one year with another, within a framework of rigorous target and performance measurement.

Present regime

The present regime seems not quite to fulfil to this prospectus. Some particular concerns are as follows.

i. Stringent annuality requirements

Contrary to the intentions of the Trading Fund regime, the Registry is actually subject to *stricter* annuality requirements, on both current and capital expenditure, than Departments with normal voted expenditure. Specifically:

- The Registry has no latitude to spend somewhat more or earn somewhat less than budgeted in-year (for example to pay out higher than expected indemnities or to deal with a mini-boom in transactions which will otherwise lead to lengthening queues). So fees tend to be set at levels which in practice generate surpluses.
- The Registry similarly has no latitude to incur more capital expenditure in-year than budgeted (for example to replace a mainframe computer at short notice).
- If on the other hand the Registry earns higher profits than budgeted or spends less capital than budgeted in-year, it is not able to spend the extra reserves in a later year.

ii. Repercussions for Lord Chancellor's other Departments

The Lord Chancellor's Department tends to become involved in discussion of any proposal that the Registry might use flexibility between years. This arises because the Treasury looks to the Lord Chancellor to offset any overspend in

the Registry by underspends in the Lord Chancellor's other Departments. The Registry cannot therefore make small adjustments in its net spending position from one year to the next in accordance with the requirements of indemnities claims or the marketplace without potentially creating havoc for the Lord Chancellor's other Departments. This compounds the annuality constraints.

iii. *Uncertainties*

The Registry does not know where it stands on these or related matters. There is no Memorandum of Understanding. Any issue that arises has to be the subject of discussion between the Registry and the Treasury, often involving the Lord Chancellor's Department as well. Such discussions may be protracted and get in the way of good management. The discussions on use of reserves to finance index map vectorisation, for example, continued over three years and delayed the start of this project by a similar period.

With the introduction of Resource Accounting and Budgeting, moreover, the position is now even less clear than it was before.

Possible future regime

In my opinion, the Treasury and the Registry need to reach early agreement on a Memorandum of Understanding setting out in simple terms what the future financial regime will be. This should not be postponed until the next Comprehensive Spending Review.

Such a regime needs to respect both the Treasury's legitimate concerns to protect the public expenditure totals, within an acceptable accounting framework, and the Registry's concern to manage its affairs sensibly and to implement a programme of improvement and customer service along the lines sketched in earlier chapters.

In my opinion, again, the new regime might best be built around a few simple propositions, as follows:

- i. *Agreement on Business Plans.* The Registry will continue to agree with the Treasury each year its Business Plans, including the required dividend, the plans for fees, the cost per unit target and other key performance targets, and any plans for borrowing to finance capital expenditure.
- ii. *Financing capital and development expenditure from fee income in-year.* The Registry will continue to be at liberty to finance capital expenditure and other development expenditure from current fee income and will in general aim to finance all such expenditure by this means each year. As implied in item i, however, financing capital expenditure from borrowing is not excluded.
- iii. *Flexibility between years.* If the Registry has a requirement for a hump of capital or other expenditure which cannot reasonably be financed in its entirety from fee income in-year, the Treasury will consider sympathetically any proposal by the Registry to finance such humps to the extent necessary from profits retained in previous years and to incur losses correspondingly in

the current year. But this presumption of flexibility will not extend to sums in excess of the dividend due. The Registry will keep the Treasury informed about expected differences between budget and outturn.

- iv. *Implications for the Lord Chancellor's other Departments.* The Treasury would not expect to ask the Lord Chancellor's Department to identify equal and offsetting changes in-year in the programmes of the Lord Chancellor's other Departments to match any variations in the Registry's programmes within the narrow limits mentioned in item iii above.
- v. *Cash reserves.* The Registry will maintain cash reserves at a level that can confidently be expected amply to cover any likely indemnity payments so as to avoid having to ask the Treasury and Parliament for special funding in all save the most exceptional circumstances. Interest earned will continue to be used to replenish the indemnity fund or otherwise to reduce the burden of fees.

The first two propositions essentially confirm that the present conventions and practices mentioned will remain valid in the new accounting world.

The third proposition would extend to the Registry something analogous to the end year flexibility (EYF) entitlement that Departments have to carry unused "spending cover" forward from one year to the next so as to avoid the inefficiencies of a rigid annuality such as end-year surges in expenditure. Profits retained from earlier years would be the equivalent in this case, within the limitation mentioned, of the "expenditure cover" in the normal Departmental case.

The proposal in proposition iii to limit the entitlement to draw on retained profits from previous years to the amount of the dividend payable in the current year would mean that the Registry would not be entitled to incur a loss *before* dividend. If the Registry wanted to go that far, a major discussion with the Treasury would be needed.

With regard to the proposition iv, the Registry needs in my opinion to be able to adjust its expenditures from year to year (within the narrow limits suggested), in accordance with the requirements of indemnities claims, the marketplace or an urgent mainframe replacement, without potentially creating havoc for the Lord Chancellor's other Departments. The conventions on how Ministers manage their Departmental Expenditure Limits should not in my opinion be so rigid as to negate the strictly limited flexibility suggested here for the Registry any more than the End Year Flexibility scheme for Departments.

The final proposition is a distillation from section 17.10 above. As discussed there, the Registry needs to have, and be seen to have, ample cash resources to cover any likely requirements to pay indemnity. It is far better that the Registry should be able, save in the most exceptional circumstances, to meet such requirements from its own resources rather than be obliged to ask the Treasury to agree, and Parliament to vote, special additional funding.

The proposed new Land Registration Bill, and Rules made under it, would need to be framed in such a way as to permit the Registry to act in accordance with the suggested regime. So far as I am aware, no change would be needed in the Trading Funds legislation.

18 PERSONNEL STRATEGIES AND STRUCTURES *

18.1 Introduction

The Land Registry is a people-based business. The quality and efficiency of the services provided depend ultimately on the staff who develop and deliver them. Experienced Registry staff gain unique technical expertise and skills which cannot be quickly replaced.

Quite rightly, therefore, in my opinion, the Registry has given high priority to being a good employer and developing good personnel and training policies. In this it has been strikingly successful.

The Registry has made constructive use of the flexibilities on pay and grading delegated by the central Departments to assist the radical re-engineering of operations discussed in Chapter 16.

In the years ahead, good policies on personnel, pay and related functions will be more than ever needed to deliver the strategic programme discussed in earlier Chapters.

The scale and cost of the personnel service, on the other hand, seem very high. The service needs to be reviewed against outside benchmarks with a view to some re-engineering. It will be important, however, not to lose the standards of excellence that have been achieved in so many areas.

18.2 Personnel divisions at Headquarters and in District Registries

The Deputy Chief Executive and Director of Corporate Services serves also as Principal Establishment Officer for the Registry.

Within Headquarters, the Registry has four personnel divisions and a pay and benefits division. A Director of Personnel heads the four personnel divisions. A Head of pay and benefits heads the pay division. Both report to the Deputy Chief Executive. These divisions, between them, employ about 92 staff.

The Deputy Chief Executive, the Operations Director and the Finance Director jointly take the lead in deciding on and projecting staff numbers. The Personnel Divisions have only a limited role in this.

The 24 District Registries have their own personnel managers. Each of these oversees on average about 10 staff working on personnel and training across a range of subjects.

Across the Registry, therefore, about 279 staff work on personnel, pay and training. The ratio of such staff to total staff appears rather high, at one per 35. A later section discusses this further.

* This Chapter draws heavily on advice from Mike Morris, to whom I am most grateful.

18.3 Personnel policies

The Registry is well advanced in the development of modern systems of personnel management, including job descriptions, job plans, staff reporting, appraisals and twice-yearly development interviews for all staff. As discussed below, the Registry makes extensive provision for staff training, principally in order to maintain and extend the staff's technical capabilities.

By 1999, all the Registry's business units had individually applied for and achieved Investors in People (IiP) accreditation. In March 2000 the organisation as a whole was awarded this accreditation. IiP assessments have helped the Registry to apply Personal Development Plans uniformly, identify and spread good practice and evaluate training programmes. Managers are made to justify expenditure on training.

In areas of the business where problems have occurred, the Registry has shown itself willing to address managerial change in appropriate circumstances.

The Registry's "good employer" policies have been an area of particular strength. Within these, some particular highlights have been:

- i. *Sickness absence.* The Registry has moved from having one of the highest average sickness absence rates in Whitehall (around 13 days per year) to having one of the lowest (just over 8 days). The Industrial Society has commended the Registry's standards in managing genuine cases of sickness and screening and in record keeping. Also excellent has been the practice whereby line-managers invariably conduct return-to-work interviews, however short the absence.
- ii. *Nurseries and playschemes.* The Registry's organisation of these is likewise very helpful to staff. The facilities are well-organised and researched in relation to the business case. They help the Registry to retain staff and sustain morale.
- iii. *Staff surveys.* As discussed in section 3.3, the Registry has commissioned staff opinion surveys in each of the past three years. Compared with most organisations, the Registry has scored well in these surveys. For the most part, staff have a positive attitude towards the Registry and the job it is doing. The two latest surveys have both indicated that positive staff attitudes are strengthening further.

Relations between management and the Trade Unions have generally been constructive as well.

18.4 Pay and grading structure

The Registry has a relatively small cadre of staff at Senior Civil Service levels. At Headquarters, seven staff are at this level, including two lawyers. The District Land Registrars who head each of the 24 District Land Registries are likewise at this level.

At working levels, the Registry has undertaken two major reforms of grading structures in recent years.

In 1995, in the early days of the delegated pay and grading policy, the Registry condensed the multiplicity of technical support grades into three new grades below Executive Officer level, with much multi-skilling of staff. This helpfully paved the way for the new combined operations team working structures described in Chapter 16.

Initially the combined operations teams were led by staff at HEO level. Now, however, under a new concept of self-management, no one formally manages the individual teams. An SEO, acting as regional leader, manages several teams. It will be interesting to see how well this approach works.

In 1998, a new grade of Senior Registration Executive (SREs) was introduced between the traditional SEO and Grade 7 levels. This has facilitated the development of Technical Teams, which deal with more difficult cases and have taken some of the workload from lawyers in the District Registries.

Both SREs and SEOs report to the Area Manager. The post of Deputy Area Manager (Grade 7) has been abolished.

In conjunction with substantial increases in technical responsibility levels at all but the highest grades, the Registration Executive grades have been deliberately increased. Between 1998 and 2000, the numbers at the Registration Executive Upper grade (formerly HEO) rose by 44 per cent, from 1009 to 1455, while the numbers at Registration Officer grade (formerly AO) fell by 15 per cent, from 3278 to 2798. The table at Box 18.1 shows the number of staff in the RA to RE1 grade before this approach was adopted together with current staffing levels in these grades.

This upward movement has also been reflected in an increase in paybill per head since 1995. As the table at Box 18.2 illustrates paybill per head has risen at rates in excess of the annual pay settlements, especially in 1997-98.

As implied above, the change in the Registry's staffing profile is linked to the programme for progressive re-engineering of the Registry's operational processes discussed in Chapter 16. The year on year reductions in cost per unit discussed in Chapter 17 indicate that increased output per member of staff has more than offset additional salary costs. The returns from the programme have still, moreover, to be harvested in full.

Looking ahead, the strategy for e-conveyancing will involve a continuing transformation of the tasks of Registry staff. With e-lodgement of applications, the routine clerical and data inputting elements will show a further sharp decline. The need will increasingly be for intelligent vetting and oversight of a substantially electronic system. The grade structure may need to be rationalised further to accommodate these changes.

In the middle of these reforms, however, it will be important for the Registry to ensure that the changes in grading and paybill per head are viewed alongside

measurements of quality and cost per standardised unit and the scale of expenditure on IT. Such changes can only be justified, as they appear to have been to date, if they are delivering decisive improvements in the quality, efficiency and value for money of the services delivered, and preferably some reductions in fees as well.

18.5 Pay

(a) General levels

The Registry's pay settlements since 1995 seem to have been broadly in line with other civil service settlements. The Registry has encountered problems similar to those in other organisations on how to provide for progression within grades alongside cost of living increases and performance related elements without inflationary consequences.

For all grades covered by the Inter-Departmental Survey for 1999-2000, the Registry was in the second quartile or below.

In the opinion of Mr Morris and myself, the Registry is reasonably placed at this level. Challenging as some of the work may be, especially where there are disputes between owners or with the Registry, the challenges in some of the other public services are probably at least equally great.

The evidence on recruitment and retention tends to confirm that the Registry is not paying its staff too little. On recruitment, positions in the regions have been on average around 10 times oversubscribed. On retention, the annual wastage is around 4.23 per cent. Within this, resignations account for only some 2 per cent.

Below some of the most senior and specialist levels, and with the possible exception of the London area, the Registry is clearly well able to recruit and retain at present levels of pay. The Registry's excellent "good employer" policies, discussed earlier, and the location of many of the District Land Registries offering secure and congenial work in areas of historically high unemployment, doubtless contribute substantially to this favourable position.

(b) Regional variations

The Registry pays extra allowances for staff based in central London, Harrow and Croydon. In some areas of the country, especially the North, the rates are especially competitive. Rightly in the view of Mr Morris and myself, however, the Registry has resisted pressures to introduce further local allowances or discounts.

(c) Overtime

Overtime working in the Registry is running at around 5 per cent, or approaching 400 full-time-equivalent staff. There is little or no compulsory overtime, except in the IT area. Neither do staff have the right to work overtime.

As discussed in Chapter 16, overtime is a significant element in the flexibility the Registry's management has to manage workload. The present proportion of overtime seems justifiable, given the need for flexibility.

Looking ahead, the Registry's considerable ability to manage workload, and in particular to switch between longer-term programmes and short-term urgencies, should enable it to continue with limited amounts of overtime.

It will be important to guard against the development of an overtime culture and possible overtime abuses associated with extended service hours. The concept of annualised hours may have a part to play in this connection.

(d) Performance pay

In common with other Government bodies, the Registry has been obliged to introduce performance related pay.

For the forthcoming year, the Registry will be required to introduce a new performance pay regime in accordance with Cabinet Office guidelines and based on the new arrangements for the Senior Civil Service.

There is at present an annual bonus, Registry-wide, which has proved popular with staff. This is separate from the pay round. The Registry may award up to 2.5 per cent of the permanent wage bill including national insurance. The Registry must achieve its cost per unit target before the bonus may be awarded. The amount of the award is then assessed on achievements against individual key performance indicators.

Within the current year's pay rise of 4 1/2 per cent, about half has gone to across the board cost of living increases for all staff considered to be satisfactory performers. Between 1 1/2 and 2 per cent has been used to give small performance increments though an equity share system based partly on staff appraisal Box numbers and partly on the individual's position in the pay range. These increases are consolidated except for people at the top of the pay range. They enable staff who perform effectively to progress up the pay range for their grade. But the rate of progress is very slow. The amount of money left to deal with other important issues is clearly limited.

In the opinion of Mr Morris and myself, this is a complicated system which does not really reflect the Registry's needs. It is not clear that the new arrangements now being proposed by the central Departments will solve the problem. The system seems likely to continue to be expensive to administer, not least in terms of management time. There seems little likelihood that it will contribute to business success. It risks demotivating more staff than it will motivate.

Mr Morris has suggested that, if there is to be an element of performance related pay in the new system, it should preferably be uncoupled from the issue of progression and include

- an office-based bonus
- spot awards for particularly good work, and
- a limited number of annual excellence awards.

All elements would be non-consolidated. The second and third elements could be team-based or person-based, depending on the circumstances.

In my opinion, too, a system on these lines would be far less distracting to administer and would largely avoid the potentially serious problem of demotivation.

18.6 Recruitment and promotion

For its legal advisers, the Registry recruits lawyers with a good grounding, and often considerable experience, in property law.

For other staff, the Registry does not have a “fast-stream” entry. It has traditionally reckoned to develop its own, home-grown timber in the quantities needed to fill the more senior positions. In recent years, however, the Registry has recognised the need to fill some senior posts through open competition so as to bring in different experience, new talent and fresh ideas. The Registry has sought in this way to balance the need to bring in talent and expertise with the need to give its brightest and best people every opportunity to develop and compete for posts.

In my opinion, this is probably the correct policy. There is a case, however, for going further, both on inward secondments and on development of home-grown talent.

On inward secondments, the Registry should plan in my opinion to recruit a small number of staff of high quality from elsewhere, mostly on limited secondment, to assist in important tasks where Registry staff have little experience or where their experience is necessarily insular. Examples are getting things done in Whitehall and bringing statistics and economics into the Registry’s business.

On development of home-grown talent, the Registry has introduced a “Focus” Scheme. In the first year the calibre was high and only six staff were accepted onto the scheme. For the second year intake, line-managers have been urged to do more to encourage a greater number of staff to put their names forward. 31 have done so.

The Registry has a high quality recruitment process incorporating a scored paper test and a competence-based interview at an Assessment Centre. In most parts of the country, candidates of good calibre are found.

There are, however, two problems that need to be solved:

- i. *Length of time.* The recruitment process is too slow. At the main Registration Officer entry level, it takes 84 days. The Civil Service rules on “fair and open” competition do however make shortcuts difficult.
- ii. *Specialists.* The inflexibility of the grading structure makes recruitment of specialists difficult. There may be scope for starting specialists in scarcity areas at higher points in the scale. A recent review of qualifications and rewards has addressed this issue.

The procedures for promotions are similar to those for recruitment. There is difficulty at present in filling posts at SRE/SEO level at some locations. The solution may lie in

- i. recruiting more staff from outside at these levels and
- ii. strengthening the internal development training programmes as discussed above.

18.7 Training

The Registry's total spend on training is high, at some 7 per cent of payroll or £11.8 million. Training is divided between

- technical training in the individual District Land Registries (about 80 per cent of the total), and
- general and developmental training (about 20 per cent of the total).

The high level of spend on training contrasts with the underspend in this area that bedevils many organisations. Particular successes are:

- i. the *technical training*, which is crucial to the Registry's operations and by all accounts is well thought through
- ii. the new *Land Registry Qualification*, at lower degree level, which the Registry has promoted in partnership with the ILEX Tutorial College to enable staff to deepen their understanding of land registration. More than 230 students enrolled this year and a similar number are due to enrol next year
- iii. *senior management training*, which is reported to be developing well.

There are however some issues that need to be addressed:

Earlier Chapters suggested that a new Director of Education and Training should

- (a) launch a special programme of education and training in the new land registration legislation and e-conveyancing, for the Registry's partners and customers as well as for staff,
- (b) take charge of staff training other than operational training, and
- (c) hold a watching brief on technical training.

In my opinion, there should be a presumption in favour of accommodating the staff training element of the programme at (a) above *within* the present provision for general and technical training. Training in the new legislation and e-conveyancing should be the main elements in the training programmes from next year, not a supplement to ongoing programmes. The present crescendo of training in combined operations teams and computerised mapping will be over by the time that the new elements will need to be delivered.

Some other concerns which Mr Morris has noted are:

- i. *General training*. Is this meeting the business need?
- ii. *Qualified personnel staff*. Only some 17 per cent of present personnel staff have qualifications in personnel management.

18.8 Staff mobility

The Registry has experienced some difficulty in persuading staff to move from one Registry location to another and above all to London. The problem has persisted even though the London weighting is sizeable.

The reluctance to move possibly owes something to the Registry's own success in providing staff-friendly environments and reasonable career structures in the District Registries. But it probably owes more to social factors beyond the Registry's control, such as two-career families and the cost of housing in London.

The solutions to this problem may lie partly in a willingness to be more flexible about pay packages and in particular points on the scale.

More importantly, however, the modern electronic technologies have increased the scope for people living outside London to perform central functions without being permanently based at the London Headquarters Building at Lincoln's Inn Fields.

Key members of the Registry's Bill Team and e-conveyancing Task Force, for example, are not stationed at Lincoln's Inn Fields. In my opinion, this is a reasonable way to approach the problem provided that the staff concerned accept an absolute obligation to travel to London as often as needed and, in the case of Project Teams, to have offices and hold plenary meetings regularly at Lincoln's Inn Fields.

None of this is to suggest that the Registry should move its Headquarters from Lincoln's Inn Fields. On the contrary, the Registry benefits from being close to the Lord Chancellor's Office, the rest of Whitehall and the main practitioner groups. The country's transport infrastructure likewise makes London the best place for the Headquarters.

18.9 Diversity

The Registry has developed its approach to diversity in line with Government policies. Its first Head of Diversity and Equal Opportunity was appointed in June 2000. His team is introducing a still more vigorous and pro-active policy in this area. The Registry's staff survey consultants have commended what the Registry has achieved so far.

Two issues that will need to be kept under review are:

- the levels of the diversity targets for women, ethnic minority and disabled staff, and

- why women, who overall represent a majority of Registry staff, ethnic minority staff and disabled staff are not reaching senior positions except in the lawyer grades.

18.10 Governance

In the opinion of Mr Morris and myself, the Registry's present arrangement whereby the Director of Corporate Services also serves as Senior Personnel Director and Senior Finance Director is not ideal.

As discussed in Chapter 13, a people-based business should preferably have a Personnel Director or Principal Establishment Officer who is responsible for all aspects of personnel and is not responsible for a range of other things as well. This need not prevent the Personnel Director, or indeed the Finance Director and others, from having an additional reporting line to the Deputy Chief Executive as well as being accountable to the Chief Executive.

The Personnel Director could possibly have oversight of the Facilities Management Divisions as well.

18.11 Size of personnel service

As discussed in section 18.2, the Registry employs about 279 staff work on personnel, pay and training, at a cost of some £5.1 million a year. Some 92 of them work at Headquarters.

The ratio of personnel staff to total staff is very high, at one per 35. A more normal ratio, for an organisation of this size, would be one per 80 to 95.

These comparisons may be distorted by differences of definition. The Registry have some concerns that like has not been compared with like. Comparisons are sensitive, for example, to the extent to which basic functions such as payroll and pensions administration have been contracted out. But there remains an impression that the ratio is high.

In the opinion of Mr Morris and myself, the Registry should commission an early and thorough review of the Registry's personnel services. The two main components should be:

- a careful benchmarking exercise against best practice elsewhere and in particular against two or three comparably sized and structured organisations in the public and private sectors, and
- examination of the scope for re-engineering the pay and personnel functions.

Some options that would seem worth exploring are:

- Retaining the overall policy responsibility for personnel at the centre while reducing the central divisions and giving more authority to the District Registries

- Centralisation (not necessarily in London), and possibly outsourcing, of staff-intensive routine functions, notably payroll and pensions. The Registry is already making good progress on this. On payroll in particular, large economies of scale should be possible
- Simplification of the rules in areas such as pay and hours so as to reduce the administrative burdens without losing the family-friendly policies
- Streamlining of recruitment procedures
- Review of training delivery with a view to possibly reducing the number of relatively senior full-time people dedicated to training in every District Registry, while recognising the requirement for a special programme to prepare for the proposed new legislation and e-conveyancing.

18.12 Facilities divisions

Rightly in my view, the Registry has brought together provision of all physical resources to support the Registry's operations, except IT, under a Director of Facilities.

The Director of Facilities oversees three divisions, employing 60 staff and overseeing expenditure of some £40 million a year:

- i. An Agency Estates Division, employing 8 staff at Headquarters, looks after the strategy and maintenance of the Registry's substantial estate of some 214,000 square metres, valued in January 2000 at £110 million. The Registry has not acquired any new sites since the late 1980s, and has been making disposals where possible, but has renewed buildings at the rate of one every two or three years. The individual Registry sites mostly have teams of three or four staff working on the buildings. Work on the properties is contracted out to local contractors under a pre-planned maintenance programme.
- ii. A Purchasing and Facilities Division, employing 51 staff, which looks after Headquarters needs, publicity, stationery and other purchases. The Division has led an extended programme of privatisation, contracting out and market testing. This has resulted among other things in Just in Time stationery ordering and delivery, and open access reprographics facilities, where members of the division manage the contract and arrange maintenance of the machines. Telephone facilities are outsourced to Mitel or the Cable and Wireless Network. The Registry buys in the use of local exchanges and maintenance and servicing contracts.
- iii. A Business Continuity Division, employing one staff, develops and oversees plans for continued operations during an emergency. The recent petrol crisis tested these systems. About three-quarters of the District Registries have so far rehearsed a plan.

Each of the District Land Registries has a Facilities Manager as well. These managers have a dotted reporting line to the Director of Facilities at Headquarters. On average, each of the District Land Registries employs about eleven staff on facilities and three on local IT systems in partnership with Compaq.

The Director of Facilities has co-ordinated and overseen a large programme of review and procurement projects under the Better Quality Services initiative. At the time of writing, five major projects are in progress. Seven further projects are taking place in related areas. Chapter 20 includes a list of these activities.

The Registry's management has given some consideration to the case for contracting out facilities management as a whole. But they have concluded, rightly in my opinion, that the better course is to retain strategic oversight in-house. The economics of contracting out the whole task look suspect as well. The Registry estimates that they would need about as many staff to manage an external contract as to do the job themselves.

With the ever closer links between voice and data communications, many organisations have found it better to place management of telecommunications alongside management of IT services. The Registry may like to consider this.

BOX 18.1
CHANGES IN OF STAFF IN POST (SIP) AT SELECTED LEVELS

GRADE	SIP as at 1 April 1998	SIP as at 1 January 2001	increase/ decrease	% increase/ decrease
RE1	279.6	321.8	42.2	15.1%
RE2 (U)	492.6	1487.5	994.8	201.9%
RE2 (L)	2428.4	2348.7	-79.7	-3.3%
RO	3202.8	2751.0	-451.9	-14.1%
RA	1258.5	575.0	-683.5	-54.3%

BOX 18.2
GROWTH IN PAYBILL PER HEAD COMPARED WITH PAY SETTLEMENTS
per cent per year

<i>Year</i>	<i>Growth in paybill per head</i>	<i>Pay settlement</i>
1995-96	3.3	2.8
1996-97	5.0	4.3
1997-98	6.6	3.5
1998-99	4.3	4.0
1999-2000	5.0	4.5
2000-01	4.9	4.5

19 INFORMATION SYSTEMS STRATEGIES AND STRUCTURES

19.1 Introduction

This Chapter looks at the Registry's information strategy and Computer Services Divisions. It draws to some extent on a recent Logica Review of the Registry's IT deployments, especially the staffing requirements. It draws to a greater extent on a report by David Cronin, a CCTA consultant, commissioned as part of the present Review. I am grateful to Mr Cronin.

19.2 Broad approach

The Registry's broad approach to information strategy has been:

- to develop and maintain a substantial in-house capability including design of applications, procurement, training and implementation
- to engage private sector partners and contractors in many areas, especially for the delivery of IT and scanning services.

In my opinion, this approach has been right. The Registry should be congratulated for having pursued it.

In 1994-95, the Registry considered the possibility of contracting out management of its IT facilities as a whole and market tested for managing consultants. The conclusion was, however, that the task could be done better and more economically in-house, while still making extensive use of private partners for individual projects.

As discussed in section 19.3 below, therefore, the Registry has maintained major capabilities for development of new systems and applications, introduction and training, and maintenance as well as procurement and contract management.

The Registry itself still reckons to do much of the work of developing new applications. LR Direct and NLIS both fell into this category. For e-conveyancing, too, the Registry proposes to do much of the development work in-house.

Alongside these domestic capabilities, the Registry has made extensive use of private sector partners to deliver the programmes (see section 19.4 below). Market tests for individual areas were carried out in 1996 and 1999.

The Registry has been scrupulous in following CCTA guidance and other principles of good practice in its approach to information strategy and procurement. It has developed much experience of IT procurement. Some particular strengths have been:

- the appointment of senior Directors as "owners" of main programmes as well as project leaders for individual projects within the programmes
- extensive testing and piloting of individual projects before roll-out
- well-considered training programmes to accompany roll-out

- extensive use of the Prince 2 methodology for project management and procurements.

Another major strength, since the mid-1990s, has been the Registry's ongoing two-yearly benchmarking cycle against IT Services departments of other leading institutions, both public and private sector. This initially indicated that the Registry's programmes, though effective, were costly. But costs too have now been brought into line.

The combination of in-house capabilities and private sector partnerships seems for the most part to have worked strikingly well. The Registry has made a great deal of progress in leading its business into the electronic age while avoiding the disasters that have bedevilled so many organisations.

19.3 Structures

The Registry's Director of Information Systems plays a prominent part in the direction of the business through joint chairmanship of the Registry's senior management committee below Board level (the Business Development and Information and Communications Technology Group) and through attendance at the Board as required.

The Director oversees three Computer Services divisions and a Computer Implementation and Development division. He also exercises some oversight of two managers working on particular programmes of projects. Box 19.1 illustrates the structure.

The Registry currently employs around 275 staff in these divisions with a staff budget for 2000/01 of around £7.9 million.

The recent Logica Report recommended that the Registry should plan to increase staff by about 120 over the next five or six years, including an extra 20 staff to work on e-conveyancing. The Report saw a special need for more staff in the area of database development.

The divisions and their main tasks (see also Box 19.2) are:

- i. *IT Development Division*, headed at G6 level and employing around 120 staff at Plymouth, develops software applications for the Registry's use, including internal applications such as computer mapping and external applications which support LR Direct, NLIS, and e-conveyancing. A demonstrator for e-conveyancing is close to completion and will form the focus of a comprehensive consultation exercise.
- ii. *IT Services Division*, headed at G6 level and employing around 80 staff at Plymouth, looks after the Registry's main computer and management information systems, now in partnership with Compaq (see below). A 'Model Office' has been established for testing and quality assurance of software

applications, hardware and infrastructure changes in preparation for their release into the 'live' environment.

- iii. *IT Management Services*, headed at G7 level and employing around 38 staff at Plymouth including procurement, training, personnel and facilities management specialists. This Division played a key role in negotiations leading to award of the Compaq Distributed IT Infrastructure contract.
- iv. *Computer Implementation and Development Division (CID)*, headed at G7 level employing around 38 staff at Headquarters, represents the business needs of District Registry users. Responsibilities include user-requirements, hardware distribution, software testing and implementation of new systems with suitable training and support. The Division also manages the major document imaging projects and the LR Direct service. Most members of this Division have worked in District Registries.

The present split of responsibilities between the third and fourth of these divisions appears to work but is not, perhaps, the only split that could be made.

As implied above, most of the Registry's IT staff work at Plymouth (some 238 out of 275). Only the Computer Implementation and Development Division is located at Headquarters. The spatial separation between IT development and CID is perhaps not ideal, but the provision of 'remote control' software helps to overcome the constraints of geographical separation. There are compensations by way of immediate access to the Practice and Operations Development Divisions located in Headquarters.

The Plymouth location came about by accident, because the Registry's first major computerisation project concerned the Plymouth-based Land Charges Register. But this location has proved advantageous. The Registry has been notably successful in recruiting and retaining IT staff to work there. Wastage is only around 3 per cent a year.

The Director of Information Systems also has influence over the development of the National Land Information Service as Programme Director for projects which will establish the link between NLIS and the Land Registry database. .

19.4 Private sector partnerships

The Registry has formed partnerships or let important contracts in the four main areas of scanning, computer mapping, interface with customers and internal systems. Chapter 20 includes a fuller list of the Registry's partnership and contracting out ventures.

The scanning projects will have largely dispensed with the need for staff to access physical documents. The most important have been:

- *Scanning of Land Charges Registrations* to enable electronic access (Post-1974 documents February – June 2001, 1855-1973 documents April 2001 – 2010)

- *Computerisation of Land Register entries* to enable electronic access (96% converted)
- *Scanning of title plans* to enable electronic access (93% converted)
- *Scanning of Register-referred files* to enable electronic access (October 2000 – March 2004).

The computerised mapping projects have likewise been crucial in enabling the Registry to introduce combined operations working where one staff member can handle virtually all aspects of an application. The two major projects in this connection have been:

- Development of *customised software*, in partnership with ‘Tenet’, a specialist software house, to enable computer mapping (system implementation completed in July 2000 with workstation roll-out ongoing)
- Vectorisation of the *Index Map* (just beginning and likely to be carried out mainly in-house).

The two main projects for interface with customers (external services) have been

- The contract with Global Crossing to provide the Security and Customer Support interface for the on-line *Direct Access Service*, now upgraded to *LR Direct*. This enables customers to make official searches and other pre-completion applications on-line and to lodge notifications of discharges of mortgages.
- The contract by the Local Government Information House (LGIH) with MacDonalD Dettwiler to supply and operate the hub for a *National Land Information Service* and Channel providers. The LR has played a significant role in this initiative.

The projects for improving internal working systems and productivity (internal services) have included:

- A contract with Compaq for supply and upkeep of the Registry’s new *distributed IT infrastructure of wide and local area networks, servers, PCs and peripheral equipment*. Some 5,000 “dumb” terminals (capable of processing only ‘mainframe’ applications) are being replaced by around 8,500 intelligent PCs which will enable all staff to compile and correct the Register, retrieve document images and prepare title plans online at a ‘cost per seat’ of between £54.14 and £67.95 per PC per month, depending upon specification. These costs exclude separate Central and Local Infrastructure charges. Compaq staff now work alongside the Registry’s own staff at Plymouth.
- *Computerisation of the Practice books*. This OPAL project (enabled by a private sector contract with Ringwood Software Limited) will enable staff to bring “knowledge” to the screen in the form of easily accessible and readily updated electronic versions of the Practice Books. This will have a significant impact on

printing and distribution costs and improve accuracy by ensuring that technical information is always up to date.

These are only the most important of the projects which have included an element of private sector partnership. The Registry has benefited from co-operation in other areas as well. IT Development division, for example, have used consultants from outside to work alongside Registry staff in developing new applications.

Looking ahead, the Registry is considering the scope for engaging or promoting constructive private sector partnerships in several further areas:

- building and operation of systems to enable *e-lodgement of applications* generally
- building and operation of systems for *electronic settlements*
- possible call-off contracts for help with *IT applications development* or *times of peak loading*.

19.5 Databases

Mainly as a result of the scanning programmes, the Registry now has six main electronic databases, holding 10.5 terabytes of data, held on a mainframe computer and which is mirrored in real time off-site to a second computer centre.

1. the *Land Register*, with approaching 18 million titles
2. *files referred to in the Register* (RR Files), some 8 to 9 million documents now being scanned
3. the *Day List* of applications pending
4. *Title Plans*, between 17 and 18 million raster images. Few are yet vectorised under the computer mapping process,
5. the *Index Map*, vectorisation of which is just beginning
6. The *Land Charges Register* and Bankruptcy Index.

Two additional collections of important data are the confidential Index of Proprietors' Names (technically not a database but extracted from the Registers) and the Credit Account Holders database.

19.6 Information strategy and ICT strategy

The Registry produced in June 2000 a valuable document described as an Information Strategy. In the opinion of Mr Cronin and myself, however, the document was more in the nature of a technical ITC Strategy, including a listing of particular projects, than an Information Strategy for the Registry designed to indicate how information systems would be used to carry the business forward.

In my opinion, the ten-year strategic programme for the Registry as a whole discussed in the present Report, especially Chapter 4, with target dates for delivery of major objectives and programmes, should be the starting point for the Registry's information strategy.

If the ten-year strategic programme is accepted, then the Registry's information strategy could helpfully, in my opinion, be built around the following two objectives:

- to develop and deploy in good time the high quality information systems needed to enable successful delivery of the Registry's proposed strategic programme; and
- to do so through a continuing judicious mixture of in-house strategic direction and capabilities, partnerships with the private sector, and the range of good practices, including the ongoing benchmarking programme, described in section 19.2 above.

The strategy should preferably extend over five years and be rolled forward each year.

In a similar spirit, Mr Cronin has suggested that the strategy might incorporate some broad themes, such as:

1. External service delivery leading to e-conveyancing
2. Internal electronic service delivery
3. Governance of IS and ICT by the LR Board and the Business Development & Information Communication and Technology Group (BDICT)
4. Information management, including ownership and standards.

A Board member might act as Manager for each theme with a view to simultaneous settlement of information strategy and ICT strategy.

The Board may find something on these lines helpful. An alternative approach, which might be equally effective in the Registry's present circumstances, would be to identify the strategic programmes corresponding to these themes and to retain the existing practice of assigning a senior responsible "owner" of each programme.

19.7 Skills and experience

The success of any IS or ICT Department depends on the skills and experience of its staff and their ability to support the organisation's management in carrying the business forward. Two issues of importance in this connection are recruitment and retention of skilled staff and contract management skills.

(a) Recruitment and retention of skilled staff

Especially in development work, the success or otherwise of projects and the quality of the solutions reached will often depend on the flair of a few creative staff who work on the solutions.

The Registry needs, in my opinion, to ensure that it is able to nurture and reward such staff in relation to the contributions they make without diverting them into more routine management tasks.

The show depends on artists just as much as impresarios.

(b) Procurement and contract management experience

The procurement and subsequent management of large contracts, especially in the ICT field, have likewise become critical elements in the success or otherwise of public sector businesses. The Registry is no exception.

The Registry will need, in my opinion, to give priority to ensuring that the considerable experience that some of its staff have in this field, and the experience they gain in the future, will be widely shared with others involved in the awarding and management of contracts, both on the ICT side and elsewhere.

The Director of Information Systems, and the Director of Facilities might do well to convene a Procurement and Contract Management forum once every couple of months with a view to

- sharing experience,
- ensuring that it is well documented where it is useful to do so,
- reviewing results from benchmark activities, and
- taking note of the latest thinking circulated by CCTA and other good practice standard setters.

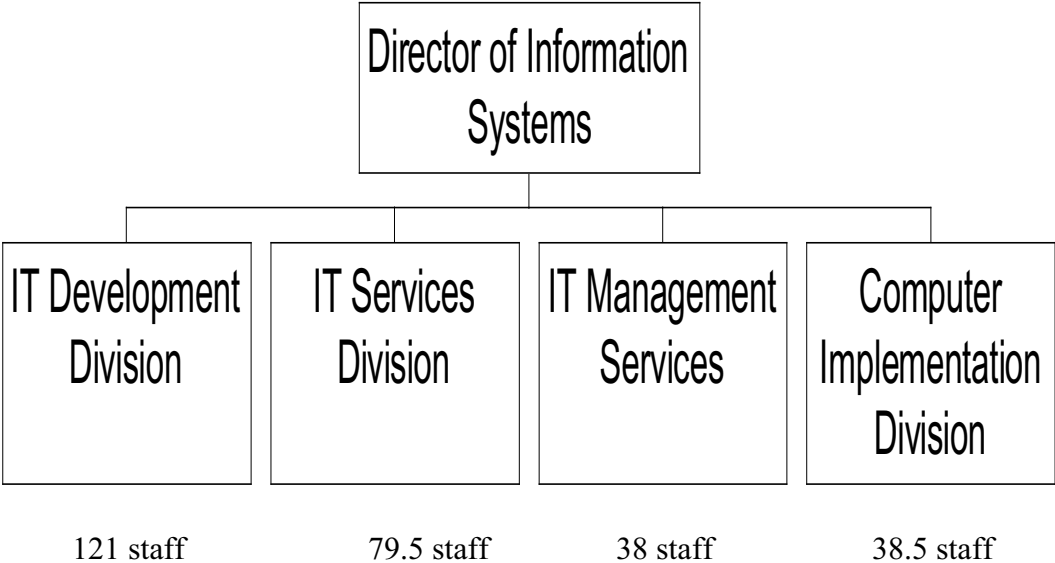
The CCTA's recent guidance in this area includes the IS Management Guides "Acquisition" and "Managing Partnerships".

Some points to be especially watched in an organisation such as the Registry are:

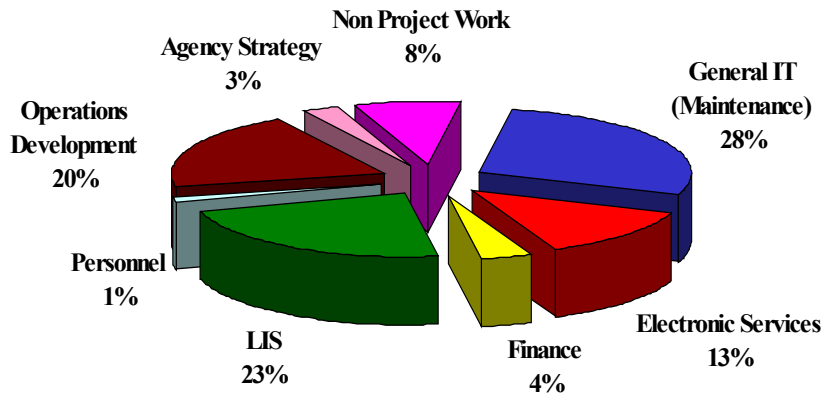
- i. *Commitment of operational divisions.* The operational divisions need to be committed to and have "ownership" of the programme.
- ii. *Contract strategy stage.* Especially at the contract strategy stage, it is vital to consider what risks to the business it is really possible to transfer to others. Risk transfer may be illusory. Contractual penalties will often not solve the problem.
- iii. *Procurement stage.* Realistic allowances should be made for the management effort and time required for procurement processes and negotiations, including timescales and access to senior management. There will usually be a need for external legal and other advice.
- iv. *Consultation.* The procurement team needs to keep the other divisions concerned in touch with progress of the negotiations.
- v. *Continuity of staff.* There should be continuity of staff up to, and often beyond, contract signature.

- vi. *Implementation stage.* This is no less important than the contract itself. Good personal relationships between staff in the IT Directorate and elsewhere in the Registry are of the essence. These need to be coupled with robust contract administration procedures and responsibilities and the enforcement of prescribed channels of communication and commercial contact with contractors.

BOX 19.1
IT DIRECTORATE - ORGANISATION CHART



BOX 19.2
IT DEVELOPMENT RESOURCE



20 BETTER QUALITY SERVICES

20.1 Overview

As discussed in Chapter 16, the Land Registry has for many years been using the framework of the European Foundation for Quality Management Excellence Model (EFQM) as a basis for business planning.

Within this framework, the Registry has carried out and continues to carry out a major programme of reviews and projects under the banner of Competing for Quality and Better Quality Services (BQS) Section 20.2 looks at these.

The Registry has carried out many similar projects alongside these BQS projects. Section 20.3 looks at these.

The present Review has likewise been concerned throughout with improving the quality, range and value for money of the services the Registry provides.

The main focus has been on the Registry's fundamental strategies for the next ten years and beyond. But the Review has noted a few areas where there is a case for undertaking further specific reviews. Section 20.4 lists some of these areas.

20.2 BQS reviews and projects so far

The main BQS reviews and projects carried out so far or in process of being carried out are listed in Box 20.1. Four projects of particular importance are:

i. Pensions management

The Registry's pension scheme remains the Principal Civil Service Pension Scheme, PCSPS. A team in the Registry's Personnel group is in the process, however, of contracting out management of the scheme to a new pensions management provider. The in-house section will be disbanded saving a minimum of five staff.

ii. Accounting system

As discussed in Chapter 17, the Finance Department is in the process of commissioning an up to date accounting system and software. As part of the present Review, Deloitte and Touche have given advice on conduct of the tender and likely suitability for purpose of the submissions received.

iii. Information Technology

The Registry's IT Department has a continuing programme for benchmarking its activities every two years against good practice outside, with special regard to quality, costs and timescales. As discussed in Chapter 19, the Registry has kept strategic control of information systems in-house while contracting out provision of the distributed infrastructure other than mainframes and most individual applications. The early benchmarking results indicated that the approach was working well but a little expensive. Costs have now been brought into line with good practice elsewhere.

Compass are currently undertaking a further benchmarking of the IT Department. Besides assessing the comparative quality and efficiency of the department's services, they will also be recommending improvements based on best practice from elsewhere and are specifically reviewing how the department decides which applications to build in-house and which to outsource.

iv. Filing of documents

The Registry has around 110 miles of filed papers dating back in some cases to 1862, mostly accessible within 24 hours.

The Registry has recently conducted a review of filing policy. The Director of Operations is now implementing a programme of change, which is intended to improve the quality, accessibility and efficiency of document storage. Key features include:

- developing a 'smart' file ordering system on the corporate Intranet
- seeking lower cost accommodation for older files, which are needed less often and could be managed by fewer staff
- educating staff to discourage unnecessary file ordering or retention of paper.
- amending the Registry's rules so as to allow the return of documents to applicants or destruction of deeds after scanning
- minimising future additions to filing needs.

The Registry has begun its programme for scanning supporting documents referred to in the Register. It is planned that new documents added to this file series will in future be scanned.

With regard to the remaining documents, some of which are held in custody, the Registry has calculated that it is cheaper to hold them, at a cost of around £2 million a year, than to scan them. The methods for holding them, on the other hand, vary greatly in the amount of space required.

In a market testing programme for document storage in 1996/97, the Registry's in-house team won the contract. But the Registry learned much from the private sector in terms of economic use of space. The Registry has been able accordingly to reduce the size of its estate by around one-fifth (55 thousand square metres). A further market test will be held in due course.

20.3 Other reviews and projects alongside BQS

The Registry has conducted many other similar reviews and projects alongside the BQS projects. The Box 20.1 table lists some of these as well. The paragraphs below mention some of the more important ones.

i. Personnel

The personnel department has contracted out certain aspects of its recruitment, transfers, relocation and travel and subsistence activities.

ii. *Facilities staff qualification*

The Registry has carried through a successful programme whereby Facilities Managers in all the District Registries have certificates of competence from Reading College of estates Management (Reading University) and the Civil Service College.

iii. *Estates management*

Each Registry Office has two sets of consultants, one for estates and the other for works. The Headquarters Division hired strategic consultants to review the other consultants retained.

iv. *Telephony*

The Registry has outsourced management of its telecommunications network to Mitel.

v. *Stationery*

The Registry will re-tender the Just in Time contract mentioned in Chapter 18 after 2002.

vi. *Postal services*

The Registry has joint arrangements with DX and Royal Mail which will shortly be formalised in a contract.

vii. *Security Services*

This outsourced contract is renewed periodically.

viii. *Cleaning*

The Registry outsources this activity with periodic re-tendering.

20.4 Possible future reviews and projects

The present Review has identified several areas where further specific reviews or projects are proposed or could be helpful.

These include:

- i. periodic benchmarking reviews of all the main Departments, including the *Finance and Legal Departments* (Chapters 15 and 17) as well as the operational departments
- ii. a special benchmarking and possible re-engineering project for the *personnel services* (Chapter 18)

- iii. centralisation and possible contracting out of *paybill management* (Chapter 18)
- iv. a special project, jointly with the e-conveyancing Task Force, to examine *payment systems* under e-conveyancing and in the meantime (Chapters 8 and 17)
- v. possible placing of responsibility for *telecommunications* alongside IT (Chapter 18)
- vi. possible *call-off contracts with IT firms* to give assistance from time to time with design issues and peakload problems (Chapter 19)
- vii. Establishment of a *Land Registry Advisory Services subsidiary company* which would extend the range of services the Registry can offer and facilitate partnerships with other public and private sector providers (Chapter 10)
- viii. Provision of *coloured title plans or index maps* and a facility for overlaying the general boundaries grid on *aerial photographs*.

Whether all or any of these projects should form part of the BQS programme or be conducted alongside is for others to say.

Finally, many of the strategic programmes discussed in the Report are likewise in the spirit of BQS but are more far-reaching than would be normal for a BQS project.

Examples are:

- i. Completion of the Register (Chapter 5)
- ii. NLIS and LR Direct (Chapter 7)
- iii. e-conveyancing (Chapter 8)
- iv. Electronic Transfer of Funds (Chapter 8)
- v. A Joint Property Market Charter (Chapter 8)
- vi. An independent adjudication service (Chapter 10)
- vii. An enhanced programme for publication of property market statistics (Chapter 10).

BOX 20.1
BETTER QUALITY SERVICES PROJECTS

Abolition

- Reprographics Manned central repro sections disbanded ~ open access introduced
- Typing Services Disbanded
- Stationery Stores Stores disbanded ~ just-in-time introduced ~ single monthly invoicing

Privatisation

- Payroll Originally Chessington as a Civil Service operation
- Catering Originally CISCO and internal administration
- Legal Services Originally Treasury Solicitors and internal

Contracting Out

- Estates Management
- Building Services (maintenance & works)
- Office Cleaning
- Security (usually including reception duties)
- Voice Telecoms Administration
- IT training
- Postal/Courier Services

Market testing

- Surveys Part Ordnance Survey & part internal
- Print/Graphic Design Internal with outside call-off
- Records Management Internal
- Banking Co-Op Bank

Internal Restructuring

- IT Services Subject to two yearly benchmarking by external assessors
- IT Development Ongoing but intended as for IT Services
- Financial Accounting Ongoing

HM LAND REGISTRY
QUINQUENNIAL AND BETTER QUALITY SERVICES REVIEW, 2000-2001

Terms of reference

1. To conduct a Quinquennial Review combined where desirable and appropriate with a Better Quality Services Review of HM Land Registry in accordance with the Cabinet Office guidance of 31 January 2000 and the Government's policies for modernising government and Civil Service reform.
2. To assess how well the Registry is succeeding in fulfilling its objectives and targets, as currently defined, for the provision of land registration and information services, and in particular to assess:
 - how well the needs of customers are being met; and
 - how the Registry and its services are regarded by customers and other stakeholders, including other Government Departments with interests in land and property, local authorities, staff and trade unions.
3. To consider the scope for improving the Registry's strategies, structures and management, and the effectiveness, efficiency and quality of the Registry's services with particular reference to:
 - whether the Registry's existing functions and objectives, as set out in legislation, the Service Delivery Agreement and the business plans, remain appropriate
 - the Registry's relationship with the Lord Chancellor and the Lord Chancellor's Department and its ability to contribute to policy and strategy decisions
 - existing governance, organisational structures and possible alternatives
 - existing arrangements and processes for the supply of services and possible alternatives, including partnership and outsourcing
 - strategic management, including delegated responsibilities, target setting and drivers for continuing improvement in performance
 - financial structures and charging regimes, management and systems
 - personnel management, staffing needs and training
 - information and communication systems, both within the Registry and with the rest of the world.
4. To identify (if necessary) particular activities where a separate BQS Review would be advantageous.
5. To make recommendations.

CONSULTATIONS OR VISITS MADE IN THE COURSE OF
THE QUINQUENNIAL REVIEW

British Bankers Association
Cabinet Office
CHAPS Clearing Company
Council for Licensed Conveyancers
Council of Mortgage Lenders
Court Service
Coventry District Land Registry
CRESTCo Ltd
Department of the Environment, Transport and the Regions, DETR
DETR Property Advisory Group
HM Land Registry Bankruptcy Unit, Nottingham East District Land Registry
HM Land Registry Computer Services
HM Land Registry Headquarters, Lincoln's Inn Fields
HM Land Registry Land Charges Department
HM Treasury
Independent Complaints Reviewer for HM Land Registry
Inland Revenue Stamp Taxes
Insolvency Service
Jeremy Coyle Associates Ltd
Land Title Branch, Ministry of Attorney General, British Columbia, Canada
Laurence, George, QC
Law Commission
Law Society
Law Society of British Columbia, Canada
Law Society of Upper Canada, Canada
Local Government Association
Local Government Information House
Lord Chancellor's Department
National Association of Estate Agents
Office for National Statistics
Ordnance Survey
Plymouth District Land Registry
Portsmouth District Land Registry
Real Property Registration Branch at Ministry of Consumer and Commercial
Relations, Ontario, Canada
Royal Institution of Chartered Surveyors
Valuation Office Agency

SOURCES OF
WRITTEN SUBMISSIONS RECEIVED BY THE OFFICE OF THE
QUINQUENNIAL REVIEW

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HM LAND REGISTRY QUINQUENNIAL REVIEW

Summary list of recommendations

	<i>Recommendation</i>	<i>Summary & Main Report sections and Boxes</i>
	STRATEGY: STRATEGIC PROGRAMME AND LEGISLATION	4
1	Adopt strategic aim to develop, promote and maintain world-class systems for guaranteeing ownership of land and for buying, selling, leasing and mortgaging of property in England and Wales, within a framework of transparent land and property markets	4.3-6, B4.3
2	Adopt a strategic programme for the decade built around seven main “pillars” or objectives, within defined target dates for each	4.3-6, B4.3-6
3	Promote new world-class legislation opening the way to ownership and transfers by registration rather than registration of ownership and transfers from Sept 2005	B4.3-6, 4.10-12
4	Adopt target to complete national coverage of freehold titles by 2010	B4.3-6, 5.2
5	Adopt target to register new and re-assigned leases over 3 years from June 2003	B4.3-6, 5.4
6	Invite Ministers to consider requirement for declaration of true or beneficial ownership where this differs from legal or nominal ownership	B4.3, 5.3
7	Enhance Register information on leases and mortgages from October 2003	B4.3-6, 5.4, 5.5, 5.6
8	Make the Land Register, scanned title plans, supporting documents, and Land Charges Registers fully electronic and accessible electronically by June 2003	B4.3-6, 7.3, 7.4
9	Complete vectorisation of index map and make it available electronically by June 2004	B4.3-6, 6.6
10	Consult IDeA about new arrangements for governance of NLIS	B4.3, 7.7, 14.4
11	Introduce full “e-conveyancing” facilities by 2005	B4.3-6, 8 passim
12	Introduce e-lodgement for changes in the Register (optional Jan 2003, possibly obligatory Jan 2004)	B4.3-6, 8.2
13	Introduce electronic certificates & deeds (by Jan 2003)	B4.3-6, 8.7
14	Introduce electronic settlements at completion, if possible (optional Jan 2004, possibly obligatory Jan 2005)	B4.3-6, 8.8

15	With other Government and private sector service providers, re-engineer the national systems for land and property transactions from September 2005	B4.3-6, 8.12
16	With other Government and private sector service providers, establish a Joint Property Market Charter and Forum (summer 2001)	B4.3-6, 8.13
17	Promote in co-operation with DETR, ONS, VOA and others transparent and well-functioning markets in land, property and mortgages	B4.3-6, 5.3-5, 10.6
18	Introduce fuller disclosure on the Register of financial details (Oct 2003)	B4.3, 10.6
19	Develop with VOA monthly publication jointly with others of much enhanced national, regional and district data on freehold and leasehold properties, domestic and commercial (July 2003)	B4.3, 5.3-5, 10.6
20	Establish statistical & publications unit by Dec 2001	B4.3, 5.3-5, 10.6
21	Provide by Jan 2003 a fully independent adjudication service in the Land Registry	B4.3-6, 10.2-5
22	Establish new education & training service with initial emphasis on change management for new legislation & e-conveyancing by Dec 2001	B4.3-6, 10.5
23	Establish self-financing advisory services for international consultancy, registration and title issues, and title-plan preparation (by Jan 2002)	B4.3-6, 5.3-5, 10.8-11
24	Establish self-financing advisory services for lay-conveyancers and historical research (by Jan 2003)	B4.3-6, 10.8, 10.11-13
25	Set objective to deliver strategic programme within existing staff levels of some 8,250 full-time-equivalents including overtime	4.7-8, B4.8, B4.10
26	Adopt revised mission of service	4.4, B4.2
27	Urge case for early introduction and passage of new Land Registration Bill to replace 1925 Act	4.10
28	Consider Box 4.9 list of items for inclusion in Bill	B4.9
29	Consider Box 4 list of items for inclusion in other Bills	B4.10
30	Establish a Task Force, a Bill Team and an Implementation Team for the new Bill	4.11
31	Develop a change management programme covering new practice materials and special programmes of education and training for staff and practitioners in new legislation and in e-conveyancing	4.12

	STRATEGY: COMPLETING, EXTENDING AND UPGRADING THE REGISTER	5
32	Set target to complete geographical coverage of Register by spring 2010 and re-deploy some 600 staff accordingly from 2002	5.2 (c)
33	Seek general power to require registration of properties	5.2 (b)
34	Decide priorities within registration programme	5. (d)
35	Invite Ministers to consider case for disclosure of true or beneficial ownership on Register where this differs from legal ownership	5.3 (b)
36	Consider possible statutory vehicles for this purpose	5.3 (e)
37	Consider form of Register entries, modalities, timing and other practicalities	5.3 (d), (f), (g), (h)
38	Register new and assigned leases with more than 3 years still to run with effect from June 2003	5.4 (c)
39	Assign about 80 more staff to registration of leases from this date	5.4 (k)
40	Enhance market transparency through publication, in co-operation with VOA, of much enhanced information on leasing and other markets, both domestic and commercial, including notional equivalent annual rents (NEARs) for leasing markets	5.4 (e), (f), (j)
41	Devise joint application forms with IR and VOA, and new standard summary page for leases, so as to improve statistical base for all property markets, with effective linkage of property types, floor areas and localities, without increasing compliance burdens	5.4 (i), B5.3
42	Consider with DETR, FSA, CML and others case for showing more mortgage details on Register and publishing more aggregated information	5.6
43	Registry to consider with Law Society and others points raised in consultative exercise, including service quality vs fee reductions, sewing-in of documents, delays in first registrations, skill levels of front-line staff, publicity material and quality of applications	5.7, 3.4
	STRATEGY: MAPPING	6
44	Consider mapping strategy for decade as in Box 6.3	B6.3
45	Continue with system of general boundaries, while retaining provision for fixed boundaries on request	6.5
46	Consider strategy for vectorising Index Map by June 2004 and vast majority of title plans by end of 2010, with eventual possibility of continuous updating in line with Ordnance Survey	6.6
47	Re-deploy up to around 500 staff accordingly over period to 2010	6.6
48	Consider practical and legal issues in relation to title-plans	6.7-8

49	Improve substance and distribution of standard briefing on index maps and title plans	6.9, Box 6.2
50	Improve quality and attractiveness of plans and index maps through completion of scanning, vectorisation, ready electronic access, and facilities for overlaying property boundaries grid on coloured OS maps and aerial photographs	6.10, B6.4
51	Deepen co-operation with Ordnance Survey in areas of deployment of surveyors and overlay projects	6.11
52	Clarify and enforce requirements as to quality of plans submitted with applications for registration	6.12
53	Introduce fee-based advisory service on mapping from Jan 2002 alongside free Estate Plan and Boundary Approval Service	6.13
54	Nurture mapping skills at all levels in Registry, including the most senior	6.15
	STRATEGY: AN e-REGISTER	7
55	Complete electronification of Registers and documents referred to in Registers and scanning of title plans by July 2003	7.4
56	Promote development of NLIS one-stop national searches system but secure changes in governance in discussion with local authority bodies	7.7
57	Advise Government to set firm requirement within framework of Best Value programme for local authorities to organise their searches data in electronically accessible Register form by 2005	7.7
58	Establish a new Unit with responsibility to advise Deputy Chief Executive on NLIS, NLPG and LR Direct	13.2 (d)
	STRATEGY: e-CONVEYANCING	8
59	Plan for four main elements in e-conveyancing: e-lodgement, e-certificates, e-settlements and wider process re-engineering	8.1, B8.1
60	Develop timetable, phasing, testing of models, public consultation, contracting and implementation plans along the lines of migration plan in Box 8.7. Consider issues around compulsion, including timing. Consultation to begin in June / July 2001	8.15, B8.7
61	Develop e-lodgement, e-signatures and authentication, and vetting policies as discussed in 8.2 to 8.4	8.2-4
62	Consider with regulators how best to license conveyancers for e-lodgement	8.5
63	Set up in January 2003 an Advisory Unit for lay-conveyancers to enable those who so wish to conduct transactions in their own properties without employing private sector practitioners	8.5, 10.12
64	Develop electronic holding of land certificates and deeds as well as	8.7

	charge certificates	
65	Discuss with lenders, conveyancers, Inland Revenue and others the scope for a system of electronic settlements, on CREST lines, at completion, through a clearing house and associated trust. Consider alternative models and possible joint corporate contracting vehicle	8.8, B8.2
66	Discuss with other Departments and service providers a re-engineered system for buying and selling houses designed to reduce the average interval between handshake and completion from 8 weeks to 3 weeks, to make chains of transactions more transparent and to implement transfers by registration at completion	8.12, B8.4-5
67	Advise Ministers on establishment of Joint Property Market Charter and Forum bringing together Departments and private sector service providers to make a success of e-conveyancing and re-engineering of property market transactions	8.13, B8.5
68	The Inter-Departmental Steering Committee and Task Force on e-conveyancing already set up should meet regularly in a wider format with other service providers	8.14
	STRATEGY: LAND CHARGES DEPARTMENT, BANKRUPTCY INDEX AND AGRICULTURAL CREDITS	9
69	Pursue strategic programme for Land Charges Department set out in section 9.7 as part of Registry's overall programme for completing the Register	9.7
70	Pursue major strategic programme for improving the national bankruptcy index set out in 9.8, (i) to (iv) and (ix) to (xii), including discussion with the Insolvency Service of the case for transferring responsibility for the Index to the Insolvency Service	9.8-13
71	Pursue programme for treatment of bankruptcy on Land Register set out in 9.8 (v) to (viii)	9.8 & 9.14-16
72	Deepen co-operation between Registry, Court Service and Insolvency Service through regular meetings at senior level twice a year and regular contacts at working level designed to carry out the strategic programmes and improve customer service and consultation	9.17-18
73	Senior Registry official, possibly Service Development Director, to be personally responsible to Board for seeing through above programme	9.19
74	Keep in mind case for privatising Agricultural Credits Register or transferring responsibility to MAFF, without attaching high priority to this	9.22, 11.5
75	Increase fees for Agricultural Credits registrations and searches	9.21
	STRATEGY: ADJUDICATION, EDUCATION, PUBLICATION AND ADVISORY SERVICES	10
76	Set up independent Adjudication Unit within Registry, under	10.4

	independent Chief Adjudicator, in January 2003, subject to passage of the legislation and any consequentials from Leggatt review of tribunals	
77	Set up in Dec 2001 new Education and Training Unit to spearhead task of educating staff and outside practitioners in preparation for new legislation and e-conveyancing	
78	Set up Statistical Publications Unit, to carry forward strategy for transparent property markets and rating valuations through monthly publication of key market information made possible by re-engineered collection processes jointly with the VOA. Also a Steering Group such as the existing ONS Group	10.6
79	Establish self-financing Land Registry Advisory Services, LRAS, separate from core Registry and mainly staffed by former Registry officials on part-time consultancy basis	10.7
80	Launch Advisory Units on International Consultancy, specialist issues of registration, and title plan advice and preparation by January 2002	10.8-11
81	Launch Advisory Units for lay-conveyancers and historical research by January 2003	10.8 & 10.12-13
	GOVERNANCE: EXISTING STATUS AND ALTERNATIVES	11
82	The Registry should remain in the public sector. It should retain its existing status as one of the Lord Chancellor's Departments, with Executive Agency and Trading Fund status	11.3-6
83	The Registry should not contract out core functions or individual business units, except perhaps the Agricultural Credits Department in due course, but should explore the scope for still further partnerships with the private sector in the delivery of services	11.6-8
	GOVERNANCE: RELATIONS WITH THE LORD CHANCELLOR'S DEPARTMENTS AND OTHERS	12
84	No need to re-allocate Ministerial responsibility for the Registry. But the Registry needs to pursue objectives that Environment as well as Justice Ministers might emphasise	12.2
85	Lord Chancellor's Department and Registry should continue to work as partners in an enterprise without usurping each other's roles. Framework Document should provide for LCD to help and facilitate	12.3
86	Case for setting up a Ministerial Committee to promote and co-ordinate a coherent national strategy for the national land, property and mortgage markets and transaction systems. The Committee might also hold meetings two or three times a year with outside stakeholders in the proposed Joint Property Market Charter Forum	12.5-6
87	At official level, a single inter-Departmental Steering Committee on strategy for the national property markets might preferably in due	12.5-6, B12.4

	time replace the existing committees. This Committee too should meet regularly in a wider forum with outside stakeholders	
	GOVERNANCE: INTERNAL MANAGEMENT STRUCTURES	13
88	Revise the Registry's organisational structure to sharpen management's focus on delivering the proposed strategy for the decade, including provision for new Task Forces on the Bill and on e-conveyancing, new education and training and statistics units, and for other new posts suggested, without any net additions to central staff	13.1-2, B13.2
89	Set up a Business Development Committee under the Deputy Chief Executive	13.4
90	The Registry should explore the possibility of benchmarking itself against comparable organisations in two or three other countries	13.5
91	All the Registry's main individual divisions should benchmark themselves on a continuing basis against comparable departments representing best practice outside	13.5
	GOVERNANCE: PRIVATE SECTOR PARTNERSHIPS	14
92	Explore the scope for still further partnerships with the private sector in the delivery of services (see 83 above)	14.3
93	Registry to seek powers in new land registration and / or trading funds legislation to set up corporate vehicles on its own account or with others, or to participate in such vehicles, for any purpose of land registration or related purposes	14.4(a)
94	Registry should be fully and properly involved in governance of NLIS. Explore with local authority bodies the scope for setting up a joint corporate vehicle with IDeA / LGIH for this purpose	14.4(b)
95	Consider joining with other stakeholders in setting up joint corporate vehicle to contract an electronic settlements system	14.4(c)
	LEGAL SERVICES, CENTRAL PLANNING AND COMMUNICATIONS	15
96	Legal departments to <ul style="list-style-type: none"> • benchmark themselves on a continuing basis against comparable departments outside • publish main practice books on the Internet • review role on e-lodgement and e-certificates with e-conveyancing Task Force • consider increasing delegated authorities of District Registries • co-ordinate with Companies House the recording of charges on companies' property • reinforce procurement and contractual expertise • re-organise work to accommodate independent adjudication unit (recommendations 21 & 75) 	15.7
97	Enlarged Corporate Strategy Group to play more proactive role in	15.8

	co-ordinating implementation of Registry's strategic programme, developing collection and publication of property market data and strengthening Board secretariat	
	OPERATIONS, INCLUDING MANAGEMENT AND PERFORMANCE TARGETS	16
98	Retain present regional structure without major changes for foreseeable future	16.3
99	Seek early improvements in following areas concerning applications: <ul style="list-style-type: none"> • Realise potential already there for further increases in productivity, especially in lower productivity Districts • Dramatic reduction in delays in first registrations and other complicated registrations • Work with practitioners to reduce high incidence of errors in applications received • Upgrade reporting and analysis of items in "standover" within management information system • Consider response to perceptions of front-line "de-skilling" 	16.7
100	Consider extended viewing and opening hours for preliminary services, including Register searches, and differential charges to encourage efficiency	16.8
101	Improve quality and penetration of standard statements of service standards and briefings and emphasise the need to serve the ultimate customer as well as practitioners	16.9
102	Include section on complaints in Registry's Practice Manuals. Staff responses to distinguish more clearly between legal and non-legal issues so that complainants may better understand what is possible	16.11
103	Improve Key Performance Indicator tables in various ways. Include fee levels as memorandum items, a five-year spread of years and a facing page of explanatory notes	16.12, B16.6
104	In co-operation with Inland Revenue, rationalise processes for collecting stamp duty alongside and if possible ahead of introduction of electronic settlements at completion	16.13
	FINANCIAL STRATEGIES AND STRUCTURES	17
105	Pending electronic settlements at completion, explore scope for direct debiting of practitioner deposit accounts for substantive applications so as to reduce number of cheques handled and errors in fees. Consider same solution for preliminary services	17.8
106	Improve fee structure by reducing fees when practicable for straight forward dealings, spreading cross-subsidy for first registrations across preliminary searches as well and more differentiation of fees to encourage efficiency and cost savings	17.9
107	Strengthen Registry's ability to finance payment of indemnities without asking Parliament for supplementary provision by considering an element of insurance based financial reporting and retaining visibly adequate cash balances	17.10

108	Reach early agreement with the Treasury on a Memorandum of Understanding on the future financial regime which gives the Registry more flexibility while respecting the Treasury's concerns	17.13, Appendix to Ch 17
109	Finance Division to benchmark itself regularly against similar departments in other organisations	17.14
	PERSONNEL STRATEGIES AND STRUCTURES	18
110	Maintain present good employer policies	18.3
111	Develop pay, performance pay and grading structures so as to promote business success and enhance motivation within carefully controlled and monitored growth of paybill per head	18.5
112	Simplify and shorten recruitment processes and strengthen internal development training programme	18.7
113	Keep the diversity targets under review	18.9
114	Principal Establishment Officer to be responsible for all aspects of personnel but not for a range of other things as well	18.10
115	Reduce size of personnel service by careful benchmarking exercise and re-engineering of functions	18.11
116	Retain oversight of facilities management in-house but consider placing management of telephones alongside IT	18.12
117	Retain Headquarters at Lincoln's Inn Fields	18.12
	INFORMATION SYSTEMS AND STRUCTURES	19
118	Retain strategic direction of information strategy in-house, including substantial capabilities for design of applications, procurement, training and implementation, while engaging private partners in many areas	19.2
119	Information strategy should be to develop and deploy the systems needed to enable successful delivery of the Registry's overall strategic programme, through a continuing mix of in-house strategic direction and capabilities and partnerships with private sector	19.6
120	Consider assigning individual Board members to champion broad themes of IS delivery	19.6
121	Continue and extend the range of good practices described in Report, including an on-going benchmarking programme, a new Procurement and Contract Management Forum to share experience, and a rolling five-year programme	19.7
	BETTER QUALITY SERVICES	20
122	Continue programme of BQS and similar Reviews within business planning framework of European Foundation for Quality Management Excellence Model.	20.1-2
123	Consider specific further reviews and projects listed in section 20.4	20.4

QUINQUENNIAL REVIEW OF HM LAND REGISTRY, 2000-01

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Addendum to the Report of HM Land Registry's Quinquennial Review

It should be noted in reading this report that the DETR Homes Bill did not complete its Parliamentary passage before the dissolution of Parliament on the calling of a general election. References in the report to the proposals in the Homes Bill, as discussed in section 8.11, and their implication for the re-engineers property markets as proposed by the Reviewer, should be read accordingly.

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