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LAND ADMINISTRATION POLICIES

CASE STUDY ON FEES AND CHARGES IN ENGLAND AND WALES

Note by the United Kingdom of Great Britain and Northern Ireland*

Summary

The Bureau of the Working Party agreed at its meeting in May 2007 to hold an in-depth discussion on fees and charges in land administration at the fifth session of WPLA. The present paper contains a case study on fees and charges in England and Wales and was prepared by the delegation of the United Kingdom of Great Britain and Northern Ireland.

Introduction

1. HM Land Registry's e-conveyancing programme has been gathering momentum since it began in earnest 4-5 years ago. We are already learning from our first prototype offering of Chain Matrix and are working towards major releases of live services in phases from next year onwards. Alongside the technical work-streams of the programme there has been a hive of activity to develop a new fee regime for this 'New World' which reflects the costs of providing these electronic transactions. This paper is intended to provide an insight into our progress and current thinking.

I. CURRENT STATE AND CONSTRAINTS

2. There are a number of constraints to changing from our present system, which include:

- (a) Treasury Rules/Existing Fee Order. Unlike a commercial enterprise, Land Registry is a Government Agency that operates not to maximise profitability, but to generate income to cover costs and the 3.5% Return on Capital Employed (ROCE). Therefore any new pricing structure must meet this key objective.

* This case study was prepared by Mr. Ted Beardsall CBE, Deputy Chief Executive, HM Land Registry.

- (b) Uncertain Markets. The costs, excluding 3.5% ROCE, of providing the current *Traditional Services* are projected to rise from £405 million in 2007-8 to £450 million in 2011-2. In addition, the costs of providing e-conveyancing services are projected to rise from £4.6 million in 2007-8 to £14.6 million in 2011-12. But these additional costs will be offset by efficiency savings in processing. Development costs for the e-conveyancing service are written off to reserves.
- (c) Other legislation. Land Registry is affected by domestic and European legislation and Directives, e.g. relating to competition rules and the use and re-use of public information.

II. OPPORTUNITY TO CHANGE

3. The Land Registration Act 2002 contained enabling provisions for Land Registry to undertake the e-conveyancing programme to re-engineer the system of conveyancing in England and Wales, with the aim of reducing delays, saving time and money, bringing greater transparency and reducing anxiety for people buying and selling property. Within the programme there are three broad categories, defined as follows:

- (a) Residential Property Services. Services focussed on e-enabling the residential sale and purchase process;
- (b) Non-Residential Property Services. Services focussed on e-enabling transactions with conveyancers of commercial property and property developers;
- (c) Knowledge Services (equivalent to current Information Services). The Act also enables the market for commercial services to be explored.

III. INTRODUCING FEES FOR E-CONVEYANCING

4. In building a new price list for Land Registry, we must apply HM Treasury cost plus principles, incorporating the 3.5% target for Return on Capital Employed for the new e-Conveyancing services.

IV. NETWORK ACCESS AGREEMENT

5. Solicitors and licensed conveyancers who wish to conduct *conveyancing* electronically, and others who wish to participate in the system, will be required to enter into network access agreements with Land Registry, confirming that they will do so in accordance with the network transaction rules. It is not now envisaged that customers will have to pay a one-off joining fee; the cost of providing IT training, security training, e-conveyancing training, verification and

authentication and costs associated with signing and storing various agreements will be recovered through transactions.

6. Different types of customers will have different needs and can choose different levels of service; e.g. SMS alerts.

V. THE PRINCIPLES OF THE NEW SYSTEM

7. The following principles apply for the new system:

- (a) Simplicity. It is important that the Tariff must be simple to help the customer use the system in an economical manner, and it should encourage best practice.
- (b) Business case assumptions. Customers/Users and Beneficial Property Owners using the system should bear the costs of the resources they consume. This principle of “user pays” is well understood, and is compatible with similar systems. It also ensures close linkage between cost and income. Tariffs should be set using Land Registry e-conveyancing business case assumptions and the Land Registry Corporate Business Model. This reflects the plan to migrate from paper transactions to e-conveyancing system use. It also includes a number of helpful take up models that are to be used.
- (c) Certainty of income. It is important for Land Registry, as an agency whose rules permit only limited reserves, to be sure of its income stream. The corollary to this is that e-conveyancing customers can have reasonable confidence that their tariff will not fluctuate significantly year on year.

VI. NEW PRICE LIST

8. Applying these principles has resulted in a rebalancing of the current tariff. The prices of some headline services will be lower in the *New Price List*, reflecting the lower costs of providing these services. At the same time, there will be charging for new services that do not exist now; charging for aborted transactions; and introducing prices for some services that are now exempt.

9. Land Registry currently offers about 600 different types of *Traditional Services* that for historic reasons attract no Fee or Charge. The logic behind some of these exempt or abated Fees goes back to 1925 and has been reviewed. A new approach is needed to reflect the very important role Land Registry plays in providing a safe, trusted, transparent and orderly property market and fees for services should be related as closely as possible to the cost of providing those services.

VI. ‘ATOMIC’ APPROACH

10. A new approach has been taken to ‘deconstruct’ Land Registry transactions to an ‘atomic’ level, to produce a list of chargeable items.

11. Under the e-conveyancing system of fees, charges and information services there are estimated to be 78 chargeable items with substantially more 'e-transactions' than 'traditional transactions' because of a combination of new "pre sales" and "pre registration" activities and a more interactive dialogue (e.g. SMS and e mail) with customers during the full business cycle. This proposal will be the subject of consultation with stakeholders.

12. The effect of the proposed price list for e-conveyancing is to reduce the "headline" price for many traditional services. Land Registry income will be maintained by introducing prices for new e-services that have no traditional equivalent and by introducing prices for some traditional services that are now free.

13. The list of chargeable items will be "packaged" into logical groupings to correspond to stages in the conveyancing process, i.e. pre-exchange, post-exchange and post-completion etc. and the fee will be collected from customers at the commencement of each phase.

VII. SOURCES OF INCOME FOR LAND REGISTRY

14. After completing the transition to e-conveyancing five sources of income are expected:

- (a) e-conveyancing equivalent of traditional services for which there is currently a fee or charge;
- (b) e-conveyancing equivalent of traditional services which are currently free;
- (c) e-conveyancing Services for which there is currently no traditional equivalent;
- (d) Traditional services which do not become part of e-conveyancing;
- (e) Knowledge services.

VIII. INTRODUCING RISK/INDEMNITY CONSIDERATIONS

15. At present, the price for certain traditional products, such as transferring a property or registering a charge, is related to the value of the property or charge. Thus, the price for a transfer ranges from £40 for a property valued at £50,000 or less up to £700 for a property valued at over £1 million. This wide difference in price is not wholly accounted for by the difference in cost of these transactions. Although higher value transactions are subjected to greater scrutiny and receive a larger implied guarantee than low-value transactions, this does not account for the difference in price.

16. Our pricing structure needs to ensure that customers pay for the resources they consume. The technical resources consumed in processing a transfer of a property valued at £1 million are unlikely to be much greater than those consumed in processing a transfer of a property valued at £50,000. This argues for setting a single price for all e-products, regardless of the value of the property or charge.

17. An indemnity fee is to be applied to all transactions. However this will be weighted for those transactions which our records indicate carry the greater likelihood of leading to an indemnity claim: i.e. transfers and charges. We are seeking advice from actuaries to determine the correct weightings.

IX. CHARGING FOR COMMERCIAL/KNOWLEDGE SERVICES (EQUIVALENT TO CURRENT INFORMATION SERVICES)

18. We have slowly been venturing into the field of developing services focussed on providing accurate and timely information across a broad range of Land Registry stakeholders. Information collation, analysis and reporting will become increasingly feasible as a chargeable service as the unique sources of electronic data available to Land Registry continue to be extended and as e-channels for access and distribution mature over time.

19. The Land Registration Act, 2002 gives us scope to exploit it more fully. There is unknown potential, but already the signs are promising. Careful and constant attention to competition rules and other legislation is needed. The atomic approach to defining products and a more accurate calculation of our own costs in providing new bulk data and bespoke services will enable us to develop a pricing structure.

X. CONSIDERATIONS FOR IMPLEMENTING CHANGE

20. Once the e-services are introduced, there will be a transitional period during which the conventional services will continue to be provided in parallel with the e-Services. During the transitional period the conventional services will continue to be provided at their present prices. The new e-products will be introduced with their own price structure from the outset.

21. The new structure has been proposed as a result of a complex and detailed analysis of current Land Registry income and pricing and the consequences of moving to a new set of e-services with a new set of prices. Given the complexity of this task and the absence of structured data for the analysis, there is a risk of inaccuracies. The assumptions will be kept under review as the e-conveyancing project progresses, so that, if new information comes to light, this can be used to modify the proposed structure. It is important that we get it right for ourselves and for our customers.

22. A sophisticated pricing model has been developed which will allow us to revise and update the core elements of the pricing structure over time as the level of uncertainty decreases through practical experience. Overall, it is believed that the result will be a more transparent and economically efficient structure.
