

LAW SOCIETY OF SCOTLAND - REGISTERS OF SCOTLAND

JOINT CONSULTATIVE COMMITTEE

MEETING ON 18th April 2007

Present:

Mrs Janette Wilson	Mr James Meldrum, Keeper
Mr D John McNeil	Mr Bruce Beveridge
Mr Lionel Most	Ms Sheenagh Adams
	Mr Mike Hollingsworth (Secretary)
	Ms Melissa Murfin (observer)

Opening remarks

The Keeper opened the meeting and thanked members of the Committee for their attendance.

1. **Apologies**

Apologies for absence had been received from Mr Ian Davis, Mr James Ness and Mr Stuart Wortley.

2. **Minutes of Last Meeting**

The minutes of the meeting held on 13th December 2006 were approved.

3. **Matters Arising**

3.1 **Review of the Land Registration (Scotland) Act 1979**

The Keeper advised members that John Glover, one of the Agency's Legal Directors, was contributing to Professor Gretton's work on the review at the Scottish Law Commission. Bruce Beveridge advised members that the SLC were expecting to produce their Report and a draft Land Registration Bill by late 2008.

John McNeil commented that he expected that the Bill would be quite large given the scope of the review. However, Bruce Beveridge advised that it was his understanding that Professor Gretton was attempting to limit both the size and the impact of the Bill in the light of the review's emerging conclusions.

3.2 **Automated Registration of Title to Land**

Bruce Beveridge updated members on the preparations being made for the introduction of ARTL. He advised that 491 organisations had so far applied for a licence to use ARTL; 7 of these were lending institutions and 7 local authorities had also applied. Information packs had been sent out to all applicant firms and, as soon as the system was fit for purpose, RoS would contact the applicants to arrange a registration visit.

All of the necessary legislation was now in place and the first two sets of Keeper's Directions had been published and were in force. The first of these set the standard for the electronic signatures used within the ARTL system while the other provided for the commencement of registration of standard securities and discharges through the ARTL system on registered titles across Scotland. The commencement date of 2 April 2007 is set to validate transactions carried out through ARTL as part of a rigorous "fit for purpose" testing phase before the first stage of the ARTL rollout to solicitors and lenders.

The Keeper referred to the cautionary words spoken by James Ness at a previous meeting when he advised that the system could be launched early but that that could turn out to be counter-productive if users encountered any problems. He advised that RoS intended to commence live testing by carrying out some discharge transactions with some 'friendly' firms. Bruce Beveridge stressed that RoS had taken James Ness's words to heart and that accuracy and quality were our paramount aims.

Janette Wilson agreed that this was the right approach to take. Lionel Most agreed and also advised that the live testing with certain friendly firms was a particularly good idea.

3.3 Quality of Land Certificates

Sheenagh Adams advised members that RoS had comfortably met their registration accuracy target by achieving a 98.67% accuracy rate. There were some fluctuations in the improvement in quality, possibly partly being due to the current use of some temporary staff but the trend was still downwards.

Lionel Most asked whether unrelated errors in a single title were counted separately or together. Sheenagh Adams advised that one case returned was counted as one error but that RoS did distinguish between statutory and non-statutory rectification. She offered to provide him with some statistics that differentiated between correction cases and rectification cases. The Keeper agreed that, in future, it would be helpful if this paper provided such a further break down of the statistics, particularly between correction cases and rectification cases.

Sheenagh Adams went on to advise that RoS Intake staff were still returning approximately 12% of all applications, the main reason for their return relating to payments. 30% of cases returned were due to difficulties of one sort or another with payment of fees. She hoped that this figure would fall as more firms switched to payment by Direct Debit - 40% of all applications were now paid for this way. The Keeper advised that the returns rate compared favourably with the English Land Registry and particularly the Northern Irish Land Registry.

3.4 Abolition of Feudal Tenure etc

The Keeper advised members that the updating of the county of East Lothian had been completed and that RoS had discussed the experience they had gained while carrying out this exercise with Professor Gretton. Sheenagh Adams advised members that a large staff training exercise was being implemented to allow more staff to deal with this updating as part of their daily work.

Lionel Most queried why feudal burdens were continuing to be entered in new title sheets. Bruce Beveridge advised him that this would continue to happen until the relevant county was updated. He offered to show some examples of how titles had been updated to the Conveyancing Committee and seek their views. He also advised that a Keeper's Update had been issued in respect of this some time ago.

Janette Wilson queried how burdens previously enforceable by a builder were treated. Bruce Beveridge undertook to provide her with some examples of how RoS dealt with this. In connection with the number of deeds returned due to a failure to apply for dual registration, John McNeil asked whether RoS were aware whether the use of Deeds of Conditions was increasing. Bruce Beveridge advised that RoS did not have any statistics on this, nor did it seem to be something that could easily be monitored. He agreed with John McNeil that a jointly hosted conveyancing conference might raise awareness of the benefits in using such deeds. He did not believe that they were yet used very frequently.

4. **Report by the Keeper**

The Keeper referred to the higher than anticipated intakes of applications for registration. Intakes were some 14% higher than in the previous year and were forecast to rise by a further 13% in the coming year. This was due both to re-mortgaging activity and the size of the market, but turnaround time targets had all been met. He was pleased to note that the recent market research had indicated that more solicitors now felt that RoS was providing a very high standard of customer care.

He noted that the target to clear the legacy casework had been achieved. The cases that had not been completed all had genuine reasons for not being cleared, such as continuing or impending court action.

The Keeper noted the problems that had been encountered with the launch of the new eForms system seemed to centre on a password control issue. This had been cleared up now and the system was working well.

The Keeper said that he felt that the reduction and simplification of registration fees was one of the high points of the year for him. Bruce Beveridge said that he hoped that there would be a knock-on effect of a reduction in the number of cases returned by RoS Intake staff due to the simplification in fees.

The Keeper said that he was pleased to see how well RoS were coping with the increased workload, particularly because the use of temporary staff had its dangers in terms of a possible reduction in quality. He advised that, as far as RoS was concerned, the integrity of the registers was paramount.

Janette Wilson said that RoS were to be congratulated on the progress they had made on all fronts and would be interested to see what proportion of the legal profession would be prepared to switch to electronic Land Certificates. However, she had some concerns due to the fact that some transactions would not now result in an updated Land Certificate being issued.

Lionel Most enquired whether RoS could not supply more information on a no-cost basis to the parties to a transaction. He referred to how Companies House supplied a significant amount of data online free of charge and asked why RoS could not do the same. He thought that there would be a significant benefit to solicitors in certain transactions as the solicitor could not always plan when to bill their client - or in some cases when to search the register to confirm that all was as it was expected to be.

The Keeper agreed that discussions on a practical solution to this should continue and considered that the forthcoming review of fees to be charged for the provision of information might assist. Janette Wilson thought that an 'authorised email' to confirm when registration of certain deeds had been completed would be helpful. However, she acknowledged that it was often the purchaser of a property who needed to be advised and they were not always the party submitting the application for registration.

The Keeper commented that he had a desire to see a reduction or even the elimination of the use of paper, but was aware that solicitors had a practice rule which required them to keep evidence on paper for a number of years. Bruce Beveridge commented that the Law Society was likely to review this and thought that, once courts relaxed this stipulation, others would follow. John McNeil advised that a lack of paper evidence might cause some difficulty in the handling of complaints which might not emerge until many years in the future.

Bruce Beveridge said that his personal view was that electronic documents in the '.pdf' format were likely to be adopted by the courts. He agreed that a review of old cases must be capable of being carried out and that colouring on plans in particular was very important. He advised that electronic Land Certificates would be supplied by RoS in '.pdf' format where solicitors had requested an electronic file. Lionel Most said that it was important to be able to recall the details of a case via a single button-press. John McNeil commented that he thought that solicitors would need more time to 'acclimatise' to all of these changes.

5. **Performance Targets**

The Keeper advised that, in previous years, Ministers had set the targets for RoS. However, it was felt that this was not optimal and Ministers had now agreed that he should set most Agency targets. Ministers would endorse these targets and would continue to set the financial target themselves.

For the coming year, the financial and efficiency targets were the same as the previous year. The target for legacy casework was to clear all cases submitted prior to January 2004. The customer enquiry targets remained set at dealing with 98% of enquiries within published response standards; the main change to these being that letter enquiries to the Pre-Registration Enquiries section should be dealt with within 7 working days instead of 10.

Lionel Most enquired whether there was a target time set for the return of a receipted Form 4 as the time taken for this to be done seemed to be getting longer. Bruce Beveridge advised that, while there was not a specific target for this, the time taken should not be increasing. He asked Lionel Most to bring to his attention any specific examples that he had.

Lionel Most advised that the reason for his concern was that he had had one or two cases where the letter of obligation had expired or nearly so before the receipted Form 4 had been received. The Keeper agreed that this seemed excessive and that it might therefore be helpful for RoS to measure its performance on this issue. Bruce Beveridge agreed to look into the matter and to report back to the committee at the next meeting.

6. **A.O.B.**

Lionel Most advised that he had consulted the RoS Plans Manual as he had been advised to at the last meeting but had been unable to form any conclusion as to what colouring conventions might be used by RoS Plans staff when drawing up new title plans. He asked whether it would be possible for him to be given a simplified guide, i.e. one that was not written for use by experienced plans officers. He was also interested in understanding the reasons for the choice of scale used in title plans.

The Keeper said that the RoS Plans Manual was of course concerned with advising staff of best practice. Bruce Beveridge undertook to ask RoS's senior plans officer whether it would be possible to produce such a guide for JCC members and the wider community of interest.

The Keeper noted that the Agency was advertising for 3 non-executive directors and also looking at reconstituting the Audit Committee. There would shortly be some changes made at senior staff level within the Agency. The Directorates within the Agency were to be restructured.

Janette Wilson asked how the Agency was progressing with regard to relocation. Sheenagh Adams advised that Ministers' decision had been deferred. However, the lease on the Agency's office at St Vincent Street was coming to an end. In consultation with Ministers, the Agency had therefore recently acquired a new lease for the whole of Hanover House, which was located relatively close to the existing office. Staff from St Vincent Street would move to their new office during the summer. The question of moving the Glasgow Customer Service Centre from its existing location in George Square to Hanover House would also be considered.

Janette Wilson then referred to the letter that she had received from the Ayr Faculty of Solicitors. They had asked whether it would be possible for RoS to consider including additional information in Land Certificates in future. She had had a reply from Ian Davis on the issue and she agreed with his comment that a change in legislation might be required. However, she felt that the request had some merit in that it would allow the register to become a complete source of information regarding a property and not just of its legal status. The Keeper noted that it was important that title information from our registers should be capable of being 'joined up' with other data sources. This was potentially a more productive way of moving forward than introducing some type of central repository.

Lionel Most asked what RoS's policy was on property Postcodes. Bruce Beveridge advised that it was RoS policy to add these to an address where possible if it was not already present.

The Keeper and Committee members thanked Mike Hollingsworth for his contribution to the smooth running of the committee as its Secretary for the last six years and welcomed Melissa Murfin on to the Committee as his replacement.

7. **Date of Next Meeting**

Members agreed that the next meeting of the Committee would be held on Wednesday 15th August 2007.