

**LAW SOCIETY OF SCOTLAND - REGISTERS OF SCOTLAND**

**JOINT CONSULTATIVE COMMITTEE**

**MEETING ON 13<sup>th</sup> December 2006**

Present:

Mrs J Wilson	Mr J Meldrum, Keeper
Mr DJ McNeil	Mr B Beveridge
Mr L Most	Ms S Adams
Mr J Ness	Mr M Hollingsworth (Secretary)
Mr S Wortley	

**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 Davis.

2. **Minutes of Last Meeting**

The minutes of the meeting held on 9 August 2006 were approved, subject to a minor revision to section 4.

3. **Matters Arising**

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

Mr Beveridge advised members that the Scottish Law Commission's team had completed collating and analysing the responses made to the three published Discussion Papers. RoS had seconded Mr John Glover, one of the Agency's legal directors, to assist the Scottish Law Commission with their final Report on the review. He would also assist them in producing the draft Land Registration Bill which was expected to be ready in 2008.

3.2 **Automated Registration of Title to Land**

Mr Beveridge advised members that the necessary legislation was now all in place. He also advised that Registers Updates and an article to be published in the Journal of the Law Society of Scotland would help explain the new Rules and Fees to the profession. Mr Ness advised members that all of this material would also be available through links on the Law Society web site.

Mr Beveridge confirmed that the project was progressing well towards implementation and that the PKI had been used successfully in the first live transactions that had been completed in November. Arrangements were about to be concluded with Trustis and the Law Society for the supply of Smartcard readers.

Mr McNeil advised members that he had heard conflicting and confusing reports about PKI and the complex methods used to ensure security. The RoS members were able to assure him that - as far as the user was concerned - the system was straightforward as it used similar technology to the familiar 'chip and PIN' technology used in bank cards: all of the complicated part of the security was kept separate from the users.

The Keeper advised the Law Society members that all of the work streams on the project were being kept very busy and that he was very grateful for the assistance that RoS had received from the Law Society, particularly during the last few months. Mr Ness advised that it was his opinion that the profession would adopt ARTL but that they would rather RoS delayed the launch than go live with an incomplete product. The Keeper thanked him for his remarks and advised that the gradual roll-out planned should reduce the risk of adverse reactions if there were any initial difficulties with the new system.

### 3.3 Quality of Land Certificates

Ms Adams highlighted the continuous efforts being made by RoS staff to improve quality. A new spatial data browser tool for RoS Plans staff was shortly to be rolled out to over 300 staff. This would allow comparison of Ordnance Survey maps with aerial photographs and should help to reduce difficulties where the OS map had not been updated or was unclear.

Mr Beveridge advised that, while the error rate of applications for registration had improved to around 8.5%, due mainly to the introduction of payment by direct debit, this had now fallen back to 10.7%. Ms Adams advised that this may have been because the RoS Intake staff were now being stricter when they found an incomplete application for registration. Previously, RoS staff may have been prepared to hold on to an application in the Intake section for a day or two until a missing document was submitted. However, because RoS staff would not be able to hold on to an incomplete application once scanning of applications on receipt was introduced, it was inappropriate to continue to do this.

Mr Wortley asked what RoS would do if it transpired that a submitting solicitor's bank account held insufficient funds to pay the registration fees and the request for payment under the direct debit mandate was rejected by his bank. After some discussion, Mr Beveridge stressed that, under section 4 (2) (e) of the Land Registration (Scotland) Act 1979, RoS must accept an application for registration where payment is tendered. RoS could not reject an application merely because the request for payment under the direct debit mandate was rejected by the bank. However, RoS would seek to recover the unpaid fees from the solicitor.

Mr McNeil thought that it was highly unlikely that this situation would arise as he would expect a bank to contact a solicitor before stopping any payments. This would then enable the solicitor to transfer sufficient funds to the correct account. Mr Ness commented that any failure to honour a payment would be a matter of conduct to be raised between the Law Society and the solicitor.

### 3.4 Abolition of Feudal Tenure etc

Ms Adams gave members a report on the progress being made with the Feudal Abolition Project. She advised members that allowances were being made in the Corporate Plan to staff up the Feudal Abolition team. This would ensure that the team would complete the updating process timeously with the work spread out evenly over the remainder of the period to November 2014.

Mr Most asked for clarification of how a request for a title sheet to be updated would be treated. He was advised that RoS would not do this on request until after 2014. Title sheets created for applications for First Registration would show updated burdens only where the whole county had been updated. If the county had not been updated, then the new title sheet could still include feudal burdens.

Mr McNeil queried how properties sold off in parts were now being dealt with, especially where rights and burdens were being created in consecutive deeds. Mr Ness invited discussion of a case that had come to his attention where a solicitor who had done no wrong had had a client's application for registration cancelled through no fault of his own. The error had been made by another solicitor who had failed to apply for dual registration of his client's subjects. Members sympathised, but agreed that the way to avoid such problems was to have a suitable Deed of Conditions drawn up and registered prior to any sales being made from a development, thus avoiding the need for future dual registrations.

Mr Beveridge suggested that RoS could run a further series of seminars to update the profession. Mr Ness agreed that this would be useful and offered that the Law Society jointly promote the seminars. Members agreed that this would lend greater authority to the status of such seminars and agreed that they should be held around October 2007.

#### 4. **Report by the Keeper**

The Keeper remarked on how well RoS was currently coping with the higher than anticipated intakes. Intakes of DW applications were particularly strong, which made it difficult to manage the workflow. However, turnaround times were all being met.

Now that the more straightforward legacy cases submitted prior to 1 July 2002 had been dealt with, staff were now progressing the more complex cases. Progress towards the target to eliminate stocks of such casework remained on profile. The Keeper advised that he had attended the last of the recent series of Customer Services seminars. This had been held in Greenock and had appeared to be both well-attended and popular.

#### 5. **A.O.B.**

Mr Most asked if any statistics on Reports completed by RoS were available, particularly on Form 10 and Form P16 Reports. Anecdotally, he had been told that the RoS Reports were better than those available from some of the Private Searching firms but were slower as applications for them were not available online. Mr Beveridge advised that Form 10 Reports could in fact be applied for online through Eforms, but that technical issues made requests for P16 Reports online difficult. He agreed to forward the relevant statistics to Mr Most at a later date.

Mr Most also queried whether there was a convention on the way that colouring was applied on title plans. Mr Beveridge undertook to find out what conventions or guidelines had been set and to advise him. Mr Hollingsworth advised in the meantime that guidance to RoS Plans staff was included in the RoS staff Plans Manual which was available online via the RoS web site.

Mr Beveridge advised members that there would be a minor change in the way that the completion of applications to register a sale of pro indiviso shares would be dealt with. In future, a new Land Certificate would only be sent out to the proprietor who had purchased the relevant share. Members agreed that this change of policy was consistent with dematerialisation.

The Keeper advised that the 5-year plan currently being prepared for the Ministerial Advisory Group would be sent to members for their information.

Mr Wortley asked how closely RoS would be working with Companies House with respect to the Register of Floating Charges. He was advised that registration information would be passed to them electronically.

Ms Adams advised the Law Society members of the committee that Ministers had deferred any decision to relocate staff to allow RoS to consider matters within the wider context of the Agency's overall Change Programme. RoS would report back to Ministers late in 2007. Mr Wortley advised that he had concerns that there would be a high turnover of staff if any relocation was forced on RoS. Ms Adams replied that in terms of the Change Programme, once e-lodgement and e-settle were implemented, home working for staff would also fall to be considered.

6. **Date of Next Meeting**

Members agreed that the next meeting of the Committee would be held on Wednesday 18<sup>th</sup> April 2007.