

## **Joint Consultative Committee**

### **Minute of Meeting held on 8th November 2007**

Present:

Law Society of Scotland:

Janette Wilson  
John McNeil  
Lionel Most  
Scott Wortley

Registers of Scotland:

James Meldrum (Chairman)  
Bruce Beveridge  
Sheenagh Adams  
Karen Alexander (Secretary)  
Diana Fraser (Observer)

#### **Opening remarks and apologies**

1. The Keeper opened the meeting and thanked members for their attendance. He also commented that it had been due to unfortunate circumstances that the planned schedule of meetings had been disrupted but that this was now back on track.
2. Apologies for absence were received from James Ness.

#### **Minutes of last meeting**

3. The minute of the meeting held on 18th April 2007 was approved. John McNeil asked about the change of support for the Committee and the Keeper explained that a RoS Secretariat had now been established under Karen Alexander's leadership. Karen and her team would be responsible for servicing the JCC.

#### **Matters Arising:**

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

4. Bruce Beveridge updated the Committee on progress. He and the Keeper had attended a useful meeting with the Land Registration Act project team at the Scottish Law Commission, which had explored thinking for the draft Bill scheduled for the end of 2008. Parliamentary drafting resource had now been provided to the Commission and a team in RoS's Legal Services Directorate was to be established in the near future to work with the Commission as they drafted the Bill.

- **Automated Registration of Title to Land**

5. Bruce Beveridge reported that ARTL was progressing. It had been released and rolled out to a number of users for security related transactions (Securities/Discharges) and was now fully operational for re-mortgaging. There had only been a few teething troubles over the first few weeks, which had been quickly resolved. Confidence in ARTL was good and more users were signing up. A feedback meeting would be held in late November. However, there was a good feeling from stakeholders at the moment.

6. Bruce Beveridge then explained that the transactional stage of ARTL was not yet complete. BT was in the process of providing dates for this stage of ARTL and also for the updated version of Registers Direct. The roll out strategy, which had been amended to take on board lessons learned to date, was now set to roll out to more than 500 legal firms which had signed up, on a county by county basis starting with the most mature counties on the Land Register. The process would start early next year with issues with individual IT systems being addressed first before formal entry procedures to the system took place.

7. John McNeil asked how the system was operating compared with expectations and Bruce Beveridge explained that it was better than expected. On exposure to the profession, he explained that take up of attendance at the recent Conveyancing Conferences, which had dealt with ARTL, was excellent and that all venues had been over subscribed.

8. John McNeil asked on behalf of James Ness if RoS had become aware of problems with the operation of the policy on dual registration perceived by practitioners in Dumfries. Bruce Beveridge said he was not aware of anything. John McNeil further commented that he thought there was still some disparity around this area of practice generally and that the Conveyancing Committee might consider further.

9. The Keeper said he felt it was important to keep the profession up to date with progress on ARTL especially considering the amount of time that had elapsed since the concept had developed. He noted that James Ness had written a good article for last month's Journal. It was agreed that Bruce Beveridge and James Ness were to do a future combined article that would also cover feedback from the Conveyancing Conferences.

### **Quality Initiative Update**

10. The quality initiative update paper was considered. The Keeper said that RoS took the issue of quality and accuracy seriously. Sheenagh Adams commented that RoS was still showing an upward trend in performance in both the accuracy measures used. She added however that there was some anecdotal evidence that we were not as good as we had been in the past but this could be because of temporary staff. She asked if JCC members had any views on this. Lionel Most said that his personal experience was that quality was no worse or no better and that often practitioners did not follow up any minor errors they spotted as they were too busy.

11. The Keeper commented that RoS rejections to submitting agents were running at around 12% of applications received at Intake. Over the long term this had been a pretty stable figure. Some of these were fee-related problems, for example cheques not being signed or for the wrong amount. Some 46% of applications were now paid by Direct Debit so the error rate should have reduced. However, the quarter to September had an error rate of 10.2% at Intake, an increase on previous quarters, so the error rate seems to be again on an upward trend. By way of example, he cited that the following errors were occurring: registration forms not signed, 16 % of error rate in Quarter 1 and 22% in Quarter 2; and incorrect SDLT Certificates 7.1% in Quarter 1 and 12% in Quarter 2.

12. The Keeper noted that once cases had passed the Intake stage, he was loathe to cancel them. ARTL should help improve the position, but there was a common interest between RoS and submitting agents to get things right first time and he invited the Conveyancing Committee to reflect on this. John Mc Neil said that he would put this on their agenda.

13. John McNeil asked the Keeper if Forms 10 & P16 sent in by paper copy still needed to be signed as those sent on e-Forms did not. Bruce Beveridge said he would investigate and report to John on the position.

### **Abolition of Feudal Tenure**

14. Bruce Beveridge spoke to the paper on updating of the Land Register that had been circulated. He explained that the Keeper was very keen to take the views of the JCC into account to help him ensure that he was taking matters forward in such a way as to provide that the Registers were as accurate as possible.

15. Lionel Most commented that the profession was keen to ensure that there was certainty and clarity around enforceable burdens.

16. Scott Wortley offered his views on the implications of the legislation. He said that the position in relation to burdens statements arising from sections 53, 54, and 56 was dependent on the physical position on the ground and confirmed that the Keeper would have no way of ascertaining the true position with certainty. He therefore agreed with the paper's conclusion on this. He went on to explain his concerns that in relation to burdens in titles falling within the ambit of section 52 the Keeper could do more than was proposed in the paper, by inserting a note on the title sheet of a burdened property in terms of the obligation upon him set out in section 58 regarding enforceability derived from the titles to immediately surrounding properties.

17. Bruce Beveridge thanked Scott for raising this issue and agreed to look at it further in consultation with both Scott Wortley and, separately, Professor Gretton. He agreed to revert to the JCC in writing with clarification on how the Keeper would proceed on this point.

18. The Committee then discussed how the issue of including a statement in the Land Register should be dealt with. On balance, it was felt that the relevant statement should be inserted as each title was updated rather than mechanistically for each county as it was completed. This would appear at the start of the Title Sheet. The Keeper advised that he would reserve judgement on the best technical solution to achieve this. The Committee also agreed to a drafting suggestion from John McNeil so that the statement would read as follows:

*“This section of the title sheet has been updated in terms of the Keeper's powers and duties under the Abolition of Feudal Tenure (Scotland) Act 2000 and the Title Conditions (Scotland) Act 2003.”*

19. The Committee considered the paper further and agreed the principles set out, subject to some minor clarification and enhancement. The Keeper noted that he would be issuing a general statement about his policy on these matters in due course.

### **Report from Keeper**

20. The Keeper spoke to his report, noting that business was again up on the previous year but to a lesser extent than had been predicted. RoS was on course to meet the targets set by Scottish Ministers and the Keeper himself. John McNeil asked about a target for Transfer of Part work and the Keeper confirmed that such a target would likely be set for 2008-09 for the first time.

21. The progress made on clearing legacy casework was particularly noted and Sheenagh Adams explained that the Registration Directorate had been restructured into functional rather than geographical teams with this now allowing better progress to be made.

22. The Keeper drew attention to the work that was being done by RoS to minimise the likelihood of fraud being perpetrated. Work included seminars and training events for staff. RoS was also keeping in touch with events south of the Border and the Adjournment Debate at Westminster on this topic was noted.

### **Hanover House**

23. Sheenagh Adams reported that RoS's move into new premises at Hanover House in Glasgow had gone well and the office was fully operational. She advised that Mr John Swinney had carried out the official opening in September. It was agreed that the next JCC meeting would take place there.

### **Corporate Governance**

24. Sheenagh Adams reported that the new corporate governance arrangements were now in place. The quality of applications for Board membership had been very high and three Non Executive Directors had been appointed. They are Stephen Dingle, Sheila Terry and Ian Moffet. The first formal meeting would take place on 20 November.

25. Sheenagh also reported that the non executive members of the Audit Committee had been appointed. They are Paul Brady, Jeremy Chittleburgh and David Gould. Stephen Dingle would chair the Committee, which would have its first formal meeting in December.

26. A new Executive Management Team was taking forward operational matters under Sheenagh's chairing. The Team now included a new Head of Communications and Customer Services, Chris Dempsey, and a new Head of HR, Billy Harkness.

27. The Keeper explained that the RoS Ministerial Advisory Board had been abolished with the agreement of Scottish Ministers. The new arrangements better reflected the legal position. RoS was brigaded with the Finance and Sustainable

Growth portfolio and this reflected RoS's key role in underpinning economic confidence in Scotland.

28. A new Framework Document had been agreed with Ministers, setting out legal powers and responsibilities. It would be published on the RoS website soon and copies sent to JCC members.

### **AOB**

29. The issue of fraud was considered further in light of that week's Westminster Adjournment Debate on HM Land Registry. It was noted that HMLR was concerned about the information that may be able to be accessed through their web-based services since they contain scanned images of deeds, sometimes with account numbers and signatures on them. It was noted that HMLR was closing access to their information. RoS were not in the same position as RD is not available to the general public and does not contain scanned images. However, there may be a separate issue in relation to paper copies of Sasine deeds and discussions were being held with the Council of Mortgage Lenders. RoS would continue to treat any potential fraud risks very seriously. JCC members were invited to bring any issues on this matter to RoS' to attention.

30. It was noted that James Ness had raised a question about the onward sale of a property prior to the Land Certificates being completed. The paper Land Certificate for the original sale had been sent to the solicitor for the ultimate purchaser. Bruce Beveridge was looking into this and would provide feedback.

### **Next Meeting**

31. The RoS Secretariat will be in touch to arrange dates for meetings in late January/February, June and November 2008.

## **REGISTERS OF SCOTLAND**

**November 2007**