

RSS response to BIS consultation¹ on moving Land Registry operations to the private sector

Introduction

The Royal Statistical Society (RSS) is a professional body for statisticians and data analysts, with almost 8000 members across the world. We have been promoting the importance of statistics and data since we were founded in 1834, and we continue to engage with professionals and with government regarding the use of data and statistics in the public interest.² The RSS considers Land Registry operations to be very important for UK data infrastructure. We are glad to respond to the UK government's consultation on moving operations to the private sector. In particular, we think that it is important to raise concerns about the possible degradation of access to data from registers currently produced by the Land Registry.

Questions

Q1. Do you agree that ownership of the Registers should remain in government?

Strongly agree. Given the options presented however, we also believe that no change in ownership of operations would be preferable at this time. We ask the government to put provisos for public and open registers of land and ownership on a stronger footing and ensure that there is an ongoing, perhaps regulatory, incentive for the private owner to support the important public functions of the Land Registry. Otherwise, we are concerned that key public functions of the Land Registry are unlikely to continue to perform in a way that is supportive of wider business and public interests.

As we have highlighted in our *Data Manifesto*, geospatial data are the core reference data upon which society depends.³ If and when producers of core data assets are privatised, the data they produce should not be lost to the public good. We support the principle that core reference data should continue to be made open (published as open data) wherever possible, as the availability of such data increases value from other data that are held or published by business and society. The government also has a commitment to open data wherever possible. This commitment was first set out in the Open Data White Paper and reiterated in the government response to the Shakespeare Review and in the current National Action Plan for Open Government.

A private owner will have duties to its shareholders, there needs to be strong assurance in this case that the Registry will continue to support its duties that are for wider public benefit. The government's preferences for new ownership of the Land Registry include a commitment that the new private sector owner should maintain current open data products on the same or better basis

¹ BIS (2016) *Consultation document: Consultation on moving Land Registry operations to the private sector* (PDF), 24 March 2016. Available from:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/510987/BIS-16-165-consultation-on-moving-land-registry-operations-to-the-private-sector.pdf

² RSS (2014) *Strategic plan 2014-18* (PDF), available from:

http://www.rss.org.uk/Images/PDF/about/strategy-summary_flr.pdf

³ RSS (2014) *Data Manifesto* (PDF), available from: <http://www.rss.org.uk/Images/PDF/influencing-change/rss-data-manifesto-2014.pdf>

as at present, with new open data also to be offered where it will fulfil public policy goals and represent value for money.⁴ However we believe much greater clarity is needed on the mechanisms and incentives that will ensure delivery of this. Time must be taken to explore evidence, case studies and positive proposals of how access to data under a new ownership model could be strongly assured.

The circumstances and outcome of the sale of Royal Mail's Postcode Address File suggest a need to tread cautiously. As we submitted at the time, the Postcode Address File formed only a quarter of 1% of Royal Mail's costs, contributed 1% to its profits, and we can assume its value to the wider economy was much greater.⁵ In light of this, the Address File's sale as part of Royal Mail's privatisation in 2013 was a mistake. Alongside others we put the case that it would be far more beneficial for open addresses to be produced under the remit of a public sector senior responsible owner.⁶ Public money has been allocated to the redevelopment of open addressing data and we are pleased that the government has recognised this need.⁷ However progress has been slow and was arguably compromised by the change in ownership of Royal Mail.

Evidence from the Open Data Institute (ODI) also needs to be considered. The ODI has explored the economic benefit of having core data assets, such as registers, that are accessed by a wide range of beneficiaries. Their research estimates the gross value added by core reference data as 0.4%-1.5% of GDP:⁸ If users are charged fees for cost recovery, the benefit of having such data was estimated as 0.4% of GDP. When this type of data is openly published it was estimated as 0.9%, a difference equivalent to 0.5% of GDP.⁹

The Registry at present offers a mixture of data available on an open basis or for a small fee. Government consultations suggest that businesses and other users are satisfied with the Registry in its current form.

Q2 - What steps should government take and what safeguards should it put in place to ensure continued and improved access to high-quality and reliable Land Registry data?

⁴ Paragraph 60 in BIS (2016) *Consultation document: Consultation on moving Land Registry operations to the private sector* (PDF), 24 March 2016. Available from:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/510987/BIS-16-165-consultation-on-moving-land-registry-operations-to-the-private-sector.pdf

⁵ RSS (2013) *response to Ofcom consultation on the Postcode Address File* (PDF), available from:

<http://www.rss.org.uk/Images/PDF/influencing-change/rss-Postcode-Address-File.pdf>

⁶ See for example RSS (2014) *response to the Independent Report on an Open National Address Gazetteer*

<http://www.rss.org.uk/Images/PDF/influencing-change/rss-Open-National-Address-response-13-March-2014.pdf>

⁷ 'Minister hails next generation address system to support open data economy' (webpage), *Gov.UK*, 28 April 2016. Available at: <https://www.gov.uk/government/news/minister-hails-next-generation-address-system-to-support-open-data-economy>

⁸ P. 7 in Lateral Economics (2016) *Permission granted: The economic value of data assets under alternative policy regimes* (PDF), a report for the Open Data Institute, March 2016. Available from:

https://www.scribd.com/document_downloads/309810679?extension=pdf&from=embed&source=embed

⁹ P. 22, *ibid.*

BIS should ensure that oversight of its public-interest provisos is clearly in place and enforceable. We do not see sufficient evidence that this is the case.

Q3 - How could government use this opportunity to improve the quality and accessibility of data produced by Land Registry for all sectors of the economy?

It would be valuable to understand what structures and incentives BIS believes will compel strong customer or user service under contracting: these are unclear from the consultation document. Engagement with Land Registry customers or users across all sectors of the economy, and research into the use of its data, will be key to service improvement. For user engagement, the consultation refers only to 'disputes and complaints handling', saying that "currently, customers have access to an Independent Complaints Reviewer and the Parliamentary Ombudsman. Whilst this route may no longer be applicable, suitable provisions would be provided for an independent complaints service, designed to ensure that the customer has confidence in it."¹⁰

It is unclear how the Registry will be held to account on quality of service and access to data under the preferred option, which is for the government to manage a contract with a private operator. Aspirations are set out for holding the contractor to account, but mechanisms for enforcement are unclear. For example, paragraphs 45 to 47 of the consultation document state that "with appropriate standards set from the start, NewCo would be expected to meet certain thresholds for service quality... and give government continued oversight through appropriate monitoring and audit rights".¹¹ This does not say with certainty what level of regulation NewCo will be compelled to accept.

Q4 - On what basis should government manage the relationship with a privately owned Land Registry to ensure Land Registry meets, as far as is reasonable, the data quality and availability requirements of all stakeholders?

We believe there is the need for a mature independent regulator of the Land Registry to take on periodic assurance of data quality and availability, with a view to enhancing the accessibility and quality of data for users. However although independent regulation is presented as an option this is not the government's preferred option, and the proposals for regulation are not sufficiently strong. Government therefore appears to wish for the functions of regulation but would take this into the Department, establishing a group for this. BIS states that in the event of a long contract (preferred by government), there would need to be conditions in the contract allowing termination and step-in rights for government, and inbuilt provisions for monitoring and audit. There appear to be considerable uncertainties in terms of the provision for oversight in BIS, and the extent of monitoring, audit and intervention a new owner will be subject to, which might affect confidence for potential investors.

Q5. Do you agree that the suggested safeguards should be included in any model?

¹⁰ Paragraph 54 in the consultation document.

¹¹ BIS (2016) *Consultation document: Consultation on moving Land Registry operations to the private sector* (PDF), 24 March 2016. Available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/510987/BIS-16-165-consultation-on-moving-land-registry-operations-to-the-private-sector.pdf

Yes

Q6. Are there any other safeguards that you think should be included?

See answer to Q4. We suggest there is a need for a mature independent regulator of the Land Registry to take on periodic assurance of data quality and availability, with a view to enhancing the accessibility and quality of data for users. However this is not the government's preferred option and the option presented for independent regulation is not sufficiently strong.

Q7. Do you agree with the preferred option?

No

Q8. What are your reasons for your answer to question 7?

We do not see a convincing case that quality and accessibility of data would improve under the options presented.

Q9. Do you think an alternative model would be better and why?

See answer to Q4. We suggest there is a need for a mature independent regulator of the Land Registry to take on periodic assurance of data quality and availability, with a view to enhancing the accessibility and quality of data for users. However this is not the government's preferred option and the option presented for independent regulation is not sufficiently strong.

Response submitted by RSS' Policy and Research Manager, 24 May 2016