

Land Registry User Group

Minutes of Meeting

Date: Wednesday 18 September 2019

At: Civil Registry Ceremony Room, Deemsters Walk, Douglas

Time: 1100-13:00

Present: Nicholas Arculus, Land Registrar, (Chairman)
Ray Marley, Callin Wild (RM)
Charlene McGarry, Project Business Analyst (CMcG)
Nicola Pitts, Attorney General's Chambers (NP)
Alex Poole-Wilson, Cains (APW)
Paul Shimmin, Attorney General's Chambers (PS)
Nigel Lewney, Registries Manager (NL)
Zita O'Kelly, Callin Wild (Zo'K)
Juan Moore, IOM Law Society (JM)
Alexandra Dernie, Applebys (LD)
Carol Young, M&P Legal (CY)
Stephen Castle, Corlett Bolton, (SC)
Neill Harper, Senior Developer, IOMG Government Technology Services (NH)
Martin Paterson, Bridson Halsall (MP)
Paul Rodger, SRO, Land Registry (SRO)
Joanne Creedon, Quinn Legal (JoC)
Thomas Hardstone, Quinn Legal (TH)
Olivia Rowe, Quinn Legal (OR)
Carol Quayle, Simcocks (CQ)
Gordon Pollard, MU (GP)
Adrian Dobbins, MU (AD)

Apologies: Graham Kirkpatrick, Dandara Group Legal Department (GK)
Colin Falconer, Project Manager (CF)
Ruth Ledger, Pringle Law (RL)
Christina Kemp, Mann Benham (CK)
Jeanette Craster, MannBenham (JC)
Alex Mitchell, (LVW) (AM)
Irin Newby, Simcocks (IN)

1. Welcome, introduction and apologies.

The Chairman welcomed users to the fourth meeting of LRUG for 2019. The apologies were not read out on account of a large agenda. The meeting moved swiftly on to item 2. It was agreed to skip over item 4 to allow our guests from Manx Utilities to address the Group.



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2. Notes of meeting held at Extraordinary meeting of LRUG of 12 June 2019.

Notes of the summary points of this meeting were circulated. This meeting was not an ordinary meeting and so the Chairman decided minutes were not needed. That meeting had been called to discuss the Land Registry's reaction to the revised Fee Orders. The Notes were approved as read. The subject of that meeting was scheduled for further discussion as Item 8.

3. Matters arising in last meeting.

The Chairman informed the Group that the following matters arising from meeting 12 June 2019 and of 24 April 2019 were to be discussed in this meeting.

- 1) Publication of ID forms deferred. Update of 5 Registries AML/AFT sub-committee (item 8)
- 2) Submission of First Registration applications with "Receipts to cancel" marked as "to follow" (item 8)
- 3) Presentation of aspects of new Land Registry platform (items 6 and 7)
- 4) Fees Orders - (addressed in Item 8)

4. Land Registry Update [postponed to end of meeting]

5. Manx Utilities and the protection of their interests at First Registration.

The Chairman swiftly welcomed and introduced Gordon Pollard, Senior Wayleaves Officer, and Adrian Dobbins, MU Executive Director who had raised certain issues with the Land Registry. Given the importance of their concerns the Chairman had invited them to open discussions by addressing the Land Registration User Group.

i.) Gordon Pollard explained the severity of the risk attaching to a failure to record the existence of (principally) electricity wayleaves on first registration. GP explained that he had notified some specific titles of concern to the Land Registry and also wanted to raise with the profession that the need for registration of wayleaves was paramount.

ii.) GP also mentioned that the recording of wayleaves over land where there was an inhibition in favour of the banks was proving expensive in time and resource and wondered whether a solution could be found to make this process more efficient.

The Chairman responded by thanking GP for his time and the thoroughness of his presentation. The Chairman acknowledged that MU had identified some titles of concern and that he would be investigating these in due course.

On point i) the Chairman reminded the professional members of the group that in accordance with the operation of the Land Registration Act 1982 it is the responsibility of submitting advocates to provide the Land Registry with a certificate of title. The Land Registry will work to address and correct titles which contain material errors but the default response in such a case is prescribed by the Land Registration Act 1982 [s63 confirmed as the relevant provision after the



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meeting]. This would see the Land Registrar placing an inhibition on the title preventing any further dealing with that title until the defect has been addressed. The Land Registrar is aware that on receipt of such notices land owners ultimately raise enquiries with the advocates who acted for them. The Chairman stated that, in simple terms, the state guarantees the title but in case of errors of omission or commission the Treasury has a recourse against the submitting advocate. SC raised the concern that an inhibition being placed on a title may prevent completion of a conveyance and hence cause complications. The Chairman stated that was indeed the result but the intention is to protect the general revenue from a claim against someone who suffers loss on reliance on the register of record which transpires to contain material error. The Chairman added that in the case of equity's darling acquiring title after having performed all reasonable searches then the buyer would presumably take free from any unregistered schedule 6 burden. The implication of this for a major MU wayleave could be very expensive.

APW raised the point that the Land Registry has a history of recording MUA interests in short form only and that this also caused problems. APW suggested that deed references should be used to enable people to investigate the nature more fully. The Chairman agreed to look into this, adding that he believed the Registration officers do routinely make references to deeds creating burdens on properties. APW added that there is often a problem in identifying whether wayleaves are current because MU do not remove expired wayleaves. MU said that they will do so on request but don't have the resources to remove all expired wayleaves from the Deed Registry. The Group expressed the view through APW that this moved the responsibility for noting that MU wayleaves were no longer current onto the private sector and that MU should be more pro-active in this process. The Chairman noted that all organisations whether in the public service or in private practice operate with limited resources.

The meeting recognised the gravity of the problem. The Chairman in reference to item 7 flagged up to the MU that he intended to speak to them in a subsequent meeting about steps that could be taken to externalise a certain level of MU data relating to the approximate location of wayleaves to provide more direction to advocates that they should be performing prudential searches and enquiries.

On point ii) the Chairman confirmed that the Land Registrar may register a wayleave over the top of an inhibition where the wayleave was granted in advance of the inhibition because the inhibition is meant to protect the title in its correct form. This would nevertheless mean that the report on title given by a submitting advocate to the bank and/or the registry could be materially incorrect. Under the Land Registration Act 1982 the liability would remain with the submitting advocate. Advocates may have to consider their retainer with the Banks also.

MU left the meeting. Before moving onto the following item there was a brief further discussion amongst members that a response had to involve all stakeholders taking action rather than the responsibility for addressing historic errors sitting exclusively with one stakeholder or with the private sector. The Chairman stated that this meeting was no doubt part of a longer dialogue that would have to take place.



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6. Update on new Deeds Platform and Fees Calculator developments and the journey to Online. (Charlene McGarry and Neill Harper, Government Technology Services)

NH and CM demonstrated the way advocates and search clerks would be able to access and search scanned deeds remotely from their offices or homes. The Group were initially pleased but expressed, in a humorous way, a limited appetite to perform deed searches from their homes.

The methodology of purchasing copy deeds was demonstrated. MP sought reassurance that the ability to view but not purchase scanned deeds for free as is the current practice would be continuing. APW repeated his comments from the meeting of 24 April that it was disappointing that the ability of search clerks to have read-only access to the scanned deeds would come to an end once the system went live. APW expressed the view that this was a backward step and did not chime a chord with the Land Registry's stated commitment to increasing the accessibility to information necessary to ensure the Land Registry received a high quality of input. The Chairman stated that the online access was a service improvement and that the existing open search facility with the Registry public search area was continuing. NL corrected the Chairman. The intention is that both search facilities onsite and offsite will require payment before scanned deeds can be reviewed. The Chairman stated that the Land Registry is arranging for more deeds to be scanned to increase availability and that once all the deeds are scanned and fully indexed then online access will transform the ease of conducting business. The Chairman and NL agreed that this may have to be reviewed. AD sought confirmation that payment would need to be entered on a per application basis rather than via an accredited user account. This was confirmed to the disappointment of the meeting.

NL stated that our resources were limited and asked which deeds should be prioritised for scanning if resources were limited (as they are). One advocate suggested going back 28 years (the additional 7 years above the 21 year minimum root enabling a good root of title to be obtained for the majority of searches) initially fully indexed and fully scanned was of assistance. Then going back in stages of 21 years made sense but realistically there would remain a need for access to the physical deed register until all deeds were scanned. The Chairman suggested that indexing the pre-1911 deeds may potentially offer great benefits to the professional users of the deed registry. LD agreed.

On the issue of the fee calculator, Members expressed the opinion that for the time being the priority should be for the fee calculator to facilitate calculations based on value and if the CR1 or CR2 processes applied. More detailed calculations based on the other Land Registration services could follow as part of the online service build in the Land Registry. The Group noted the existing fee calculator available on the Land Registry website had been welcome and served its purpose.

7. Showcase of developments in Land Registry online functionalities. Remote access to the Register Map. (Paul Rodger, Senior Registration Officer)



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The Group were given a behind the scene's preview of the back office functioning of the new ESRI led Index Map. Members were impressed by the level of information being displayed and thought the ability to change layers was really interesting and would prove invaluable to them in the performance of their functions. APW added that the ability to add MU layers, DOI layers and eventually to expose more and more information relating to Government land such as highways was the 'holy grail' for the conveyancing community. The Chairman confirmed this was a work-in progress. CM confirmed a dialogue has been opened with layer owners. The Chairman asked CM to go about adding the PROW layer (public rights of way).

The Group felt that increasing the visibility of the Register map and including on it cautions, priorities, live applications (and their contents), Form 99 applications and limited information related to registered titles was a really helpful idea that would make their work better. Members liked there being a publicly viewable statement of the status of the application also. MP asked if 'approved epitomes' could be added to the map. The Chairman answered indirectly by stating that for live applications all submitted material would be viewable (other than Id documents). This would include the submitted epitome. The Group asked about purchasing maps and if this functionality was being provided for. The Chairman confirmed it was.

8. Practice Directives & Guides: (a) PD02/2019 Owner Occupier rate and Form CR1 and CR2.

The Chairman confirmed this had been published and brief FAQs subsequently issued. These had confirmed amongst other things that applications could be submitted with Receipts to Cancel and Discharges marked as "to follow". If the information did not follow then it would be requisitioned on and ultimately could be rejected. Forms CR1 and CR2 were now being received. The Chairman added that form CR2 was to be amended slightly so that CR2 appeared on each page. This would reduce blank pages being submitted and allow single pages to be printed and submitted. The Registry were currently accepting such partial forms.

(b) Practice Directive on introduction of Forms ID1(a), ID1(b), ID2(a), ID2(b) and ID3.

The Chairman will be promulgating these forms shortly. It will become increasingly necessary for Date of Birth information to be captured by the registry (but held off-register) for the prevention of fraud and the protection of the integrity of the Register.

9. Developments in the Land Registry (a) Pending Consultation on delivery of Exempt Information Regime. Domestic Abuse Bill.

The Chairman informed the Members that acting on the comments of the Law Society and the political direction of the Minister of the Department for Enterprise



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enabling legislation would be passed as part of the Domestic Abuse Bill allowing for the creation of an exempt information regime through changes to the Land Registry Rules. As part of this and to avoid the need for creating an exempt register of transactions, the register of transaction was also being abolished by this bill. The register of transaction has become obsolete. A consultation on the rules would follow. Representations on the Domestic Abuse Bill should be made to the Cabinet Office.

(b) Review of Substantive Land Law 2019 update.

Meeting with Land Registrar and CEO of Law Society to be arranged.

Rescheduled item 4:

4. **Land Registry Update:**
 - (a) Workflow statistics
 - (b) Workload
 - (c) User feedback and
 - (d) Property market update from Members

NL to supply figures in conventional form to members. The Registry was very busy and was looking to recruit additional workers on short term (12 months) contracts.

10. Future agenda items and any other business.

As a standing item, the Chairman encouraged all members to raise their concerns with him for inclusion into the agenda as appropriate.

11. Date and time of next meeting

Provisionally 13 November at 11am.

Meeting concluded at 1250

Signed: Nick Arculus

Date: 11 December 2019