



Land Registry User Group

Minutes of Meeting

Date : Wednesday 14 September 2022
Time : 11.00 am
Venue : Ceremony Room, Deemsters Walk, Douglas

Present: James Lowery, Land Registrar, (Chairman)
Lexi Dernie, Appleby (LD)
Graham Kirkpatrick, Dandara Group (GK)
Holly McGarrigle, Cains (HM)
Nigel Lewney, Central Registry (NL)
Shona Quayle, Long & Humphrey (SQ)
Paul Shimmin, AGC
Bernadette Arlow, Bridson Halsall
Ruth Ledger, Pringle Law
Stephen Castle, Corlett Bolton

Apologies: Ed Clague, Central Registry (EC)
Irimi Newby, Simcocks (IN)
Carol Young, M&P Legal
Martin Paterson, Paterson Property Law
James Kennaugh, Paterson Property Law
Alex Poole-Wilson, Cains
Tracy McQuillan, AGC
Thomas Harmstone, Callin Wild
Carly Snellgrove, Callin Wild

1. **Welcome, introduction and apologies.**

The Chairman welcomed users to the second meeting 2022. Receipt of apologies was noted from those unable to attend.

2. **The minutes of the meeting of 19 January 2022 were approved.**

3. **Matters arising or carried forward from meeting of 19 January 2022.**

- a) **Manx Utility burdens.** Following concerns raised by MU that its infrastructure was not referred to on some titles, the Chairman informed members he has now received details of 15 applications that MU wish him to look at.

GK said there are historic issues still on some titles as a result of a change in approach by the Land Registry in the early days of land registration. Initially, the profession was informed that details provided on Appendices F and G for the first

registration of a Title were only for new entries and other existing entries would automatically be carried forward unless expressly excluded on any transfer of part but this didn't happen; instead, the Land Registry asks the lodging advocate seeking to register the transfer of part to confirm what rights and burdens should be carried forward from the head title.

- b) **Priority Searches.** The Chairman said it was noticeable that priority searches are still not being used by the majority of the profession, explaining that the Registry cannot justify spending to improve the process on the Land Registry system if members are not going to use it.

In terms of numbers, the Chairman said there had been 31 priority searches made so far in 2022 with only 11 being made in the last 2 months. The Chairman asked members if they still thought it was difficult to make a priority search to understand if this is why the numbers are so low.

LD said she was happy with the process, it being quick and simple. HM agreed. No one present had any concerns or issues with the current process.

GK said he has continually stressed the need for the profession to carry out priority searches and not doing so leaves them and their application at substantial risk.

Members felt the period protected by a priority search should be extended to 60 days and the Chairman said he will look at this when the regulations are amended, adding that he will in all likelihood need to make changes to the secondary legislation to address some of the recommendations made by the Constitutional and Legal Affairs and Justice Committee on Adverse Possession.

GK asked if an amendment could be made relating to the Settled Land Act 1891 if changes are being considered to legislation. The Chairman asked members to e-mail details of any changes desired so that he can consider them in due course.

- c) **Island Polygons.** This topic relates to an issue that arose when the new Land Registry system became live, the mapping and how it was being applied causing some uncertainty on estates in particular.

NL reported that the remaining titles affected have not been addressed as yet, there being just under 100 left. NL said titles are being addressed as and when applications affect them, however he sought the views of the group as to whether this was seen as a greater priority than carrying out the positional improvement exercise that will see the titles with provisional mapping updated by the Land Registry, explaining that the titles affected by the green Island Polygon could be addressed in the one go as part of the positional improvement project. After discussion, members agreed it made sense to prioritise the positional improvement project. The Chairman said he will need to consider the requirement to serve notice on title owner(s) before the positional improvement project can start.

In discussing the positional improvement project, GK helpfully mentioned that the boundary for titles on estates backing on to land will go to the mid-hedge point and

not just to the fence erected on the land – one for the Land Registry to be careful with when carrying out the exercise.

4. **Land Registry Update:**

a) Workflow statistics

NL said the total number of applications, and the age profile of the applications in the Land Registry, have both reduced significantly and this was a great improvement. In terms of the age profile NL said that the Chairman deserved the credit as there are now only 5 pre-2022 applications in the Land Registry, 2 of which had been referred to the Land Commissioner.

The total number of applications in the Land Registry had reduced from 268 applications at close of business on 18 January 2022 to 178 at close of business on 13 September 2022. Of the 178 applications, 83 had been received by the Land Registry within the last 2 weeks.

NL provided the following breakdown of the 178 applications:

- 70 were back with advocates- 26 for approval, 44 having had requisitions raised on them
- 15 have been referred to the Legal Officer
- 2 are with the Land Commissioner
- 57 are awaiting an internal check before being issued to Advocates for approval
- 34 not looked at yet, 31 of which were less than 7 days old.

NL had arranged to give members a demonstration of the statistical data the Land Registry hopes to publish very shortly, however Wi-Fi issues prevented the data being shown. NL gave members a verbal update, highlighting that the data published will cover:

- the transaction address and consideration sum paid
- fees paid, including the fee type (for example, owner-occupier or fixed fee etc)
- the time taken by the Land Registry to process applications
- the time period between date of acquisition and the date of presentation to the Land Registry

NL explained the user will be able to filter the data in many ways (for example, by application type, parish, town, date, etc) and also export the results.

NL said the intention is to also publish details of all live applications in the Land Registry, together with their status (for example, 'Awaiting Processing by Land Registry' or 'With Advocate').

NL confirmed the statistical data will be published on or via the Land Registry website - once finalised, NL will notify the profession. NL also reminded members that certain details, such as the consideration sum paid, of transactions registered in the Land Registry can already be viewed at <https://www.gov.im/about-the-government/government/open-data/economy/land-transactions/>.

- b) User feedback – Performance issues to be reported**
- c) Property Market update/projections from Members**

Items b) and c) were not discussed.

5. Agenda Items:

(a) Land Registry and Deeds Registry Fees

The Chairman reported that EC was due to attend the meeting to provide an update on fees, however the Chairman had received apologies from EC as he could no longer attend.

The Chairman said he did not have full details of the new fees, however he was aware the intention remains to support owner-occupiers at the lower end of the market but off-Island residents are likely to pay additional fees. Members said Government will need to be careful that any fees introduced for off-island purchasers do not catch and negatively impact people intending to come to the Island to live.

(b) Form 15, 16 and Receipt to Cancel – continuing issues with Barclays bank plc

The Chairman reported the Land Registry are still seeing applications delayed as a result of delays with obtaining signed releases/discharges from Barclays Bank plc.

The Chairman explained that when an application is reviewed, a defect notice is issued giving the person lodging the application 4 weeks to obtain and lodge the signed release or discharge – if the required documentation is not received within the 4 week period, a final 5 days is currently allowed. The Chairman said on numerous occasions' requests for further extensions of time are being requested and although up to now he has been generous in this regard he will be stopping this practice. In future, a defect notice will be issued allowing 4 weeks in which to obtain and lodge the information – in the absence of the required documentation being provided, the application will be rejected without further notice.

Members fully understood the proposed approach and expressed their appreciation that a rejection would not be personal, merely the Land Registry becoming more efficient. Members agreed that the person seeking the release/discharge should be making Barclays aware of the timeframe and consequences of non-compliance.

(c) Standing Committee Recommendations and proposed legislative changes (brief presentation)

The Chairman gave a brief presentation on the recommendations made by the Constitutional and Legal Affairs and Justice Committee on Adverse Possession, informing members that consultation will take place shortly. The Chairman urged members to familiarise themselves with the Report and to look out for the consultation exercise.

Comments made in relation to the proposed amendments in relation to Possessory Title were generally positive. It was mentioned that it may be worth

considering additional notice methods to registered owners which would mirror the notices provided in relation to voluntary registration applications and current possessory title application such as displaying notices and advertisement.

(d) Illustration and discussion regarding some recent decisions and disputes.

The Chairman gave a brief overview of a few recent disputes, both matters going through the High Court. Discussions ensued around the quality of the maps lodged with the initial applications to register the land parcels.

Picking up on the dispute that occurred in Slieau Whallian Park which centred on a footpath/estate road, GK said in his view people should be looking to protect easements over unregistered land by lodging a Caution against First Registration. There was some discussion around this, however GK stressed that people should be lodging Cautions against First Registration in order to protect their interest in unregistered land.

GK said there was also a common misconception on the Island that only the vendor(s) is required to sign a transfer where there are no restrictive covenants on the land being conveyed – GK reminded members that easements are only valid if the purchaser(s) sign.

(e) Delays with New Build registrations.

NL explained that when a transfer of part is processed by the Land Registry, the draft office copy of title is issued to the lodging Advocate to check and confirm the title is correct before it is committed to the register. The Advocate has 10 days to respond – in the absence of a response, the title is committed to the register after the 10 day period by default. This is standard practice that everyone will be used to.

NL highlighted that where there are a number of applications giving rise to transfers from the same head title, the 10 day period is holding up later applications and causing excessive delays (on the basis applications can only be processed in priority order and one has to be completed before the next one can be sent out for approval). Where the Registry faces this issue, NL proposed that in future the Registry will contact the lodging advocate and ask for a much quicker response than the standard 10 days, in effect mirroring what the profession does when it wants an application expedited and recognising that working together will benefit everyone. All present agreed with the proposed approach.

(f) Quality of Applications – Defect Notices – Expectations

NL raised concerns about the quality of some of the applications being presented to the Land Registry, highlighting that there have been a number of occasions recently where the amount of defects raised on a single application is approaching double figures. NL expressed the view that, in such cases, the cost of identifying and highlighting all defects should not be at the public expense.

NL asked members present what their expectation was in terms of checks to be carried out by the Registry. GK felt the Land Registry has a level of duty of care

to make sure the application is correct beyond the Certificate given by the Advocate. SQ was of the view that the Registry should ensure registered titles are consistent (where appropriate), for example in the case of houses next to each other on the same street.

NL referred to the requirement for first registrations to be accompanied by a certificate signed by an advocate in the form included in Form 1. If what has been certified has been carried out diligently, with the understandable exception of typographical errors any omissions or defects should be few and far between. To generate discussion, NL suggested that in future if there were more than say 3 substantial defects the application could just be returned with a defect notice stating that the application is deficient and needs to be reviewed and amended before resubmission. Members felt the defect notice should still point out what the defect is and what document needs to be examined again in order to address it, for example 'please consider covenants in deed no XXXX'. Members however agreed that Registry staff should not be trying to set out everything that is needed to address the defect.

The Chairman raised concerns over the quality of maps submitted and suggested that the Appendix A could be amended to enable advocates to separately itemise the deed(s) showing the plan(s) confirming the extents of the land being the subject of the application.

After good debate, GK suggested the Registry just needs to be very clear in its approach and should (1) notify the IOM Law Society of its stance and (2) publish a statement confirming its role and responsibilities on its website.

In discussing accuracy, the following comments were made by members:

- advocates/conveyancers do not trust the accuracy of the register/office copy so end up buying deeds to go behind a title to check it
- as a result of the above, some firms prefer transactions where the land is unregistered rather than dealing with registered land
- where practitioners identify errors, they will quite often leave them as is as they are not prepared for either their firm or their client(s) to pay to rectify the title.

In getting to the root cause of the issues it was recognised and agreed that further training is required, in particular in relation to appurtenances and burdens. A two pronged approach has previously been suggested and agreed – the profession will deliver the legal aspect of the training and the Land Registry can follow with training on the completion of forms/maps etc. The Chairman agreed to write to IN to enquire as to who will be involved in delivering the training and potential dates for it.

(g) Feedback – what we do well and what we need to improve on
Item (g) was not discussed.

6. **Any other business**

GK enquired whether ID Forms submitted as part of an application are kept private or whether they are viewable via the Online Service. NL confirmed they are private and should not be viewable on the Online Service.

7. **Date and time of next meeting.**

The Chairman said he will arrange a date in January 2023 for the next meeting.