SUBMISSION FROM THE COUNCIL OF MORTGAGE LENDERS

Introduction

1. The Council of Mortgage Lenders (CML) is the representative trade association for mortgage lenders. Our 111 members and 88 associates comprise banks, building societies, insurance companies and other specialist mortgage lenders who, together, lend around 94% of the residential mortgages in the UK. In addition, the CML members have lent over £60 billion UK-wide for new-build, repair and improvement to social housing.

2. CML Scotland welcomes the opportunity to submit written evidence on the Land Registration (Scotland) Bill to the Scottish Parliament Economy, Energy and Tourism Committee.

Proposals for completion of the Land Register and registration issues

3. We are supportive of the desire to have all land in Scotland registered in the Land Register and for the Sasine Register to be eventually closed. We note that this will be achieved by the use of additional triggers for first registration, voluntary registration and keeper induced registration.

4. From the perspective of our members the main interest which they will have in this matter will be ensure that Standard Securities granted in their favour as security for lending which they have provided are registered as quickly as possible in the Land Register and there are no delays which could expose our members to additional risk.

5. We would therefore urge the Keeper to have in place processes which will monitor the time taken for registration and to ensure that any delays are addressed as quickly as possible. The speed of registration in Scotland compares unfavourably with that in England and Wales, particularly on a first registration and this is an area which in our view needs to be addressed.

6. We remain concerned particularly around the time taken to register new build properties which means that our members are often left exposed to risk as they do not have an effective security. A number of the issues around registration we believe relate to the common areas and the ruling of the Lands Tribunal in the PMP Plus case. We note that the previous proposal of provisional shared title plots has now been dropped from the Bill and we certainly would welcome assurances from the Keeper that the current delays in registration of new build can be addressed.

7. The proposed introduction of advance notices is welcomed by lenders. It is something which they are familiar with in England and Wales where a very similar system known as priority notices apply. Such a system should provide additional protections which are not available in the existing system.
8. There is perhaps a need for clarification around where a Disposition is being granted by seller to a purchaser with the purchaser then granting a Standard Security in favour of the a lender if one or two notices are required.

9. With regard to the proposals for rectification of the Register we do agree that the true owner should be restored as owner as opposed to receiving monetary compensation. Where a lender who has in good faith advanced monies under a Standard Security from the party to be removed from the Land Register we would expect them to be compensated.

**Electronic documents, conveyancing and registration**

10. We are supportive of the move towards e-conveyancing. We believe it offers lenders many opportunities to streamline processes and will mean a better experience for consumers. Provided that sufficient protections and safeguards can be built into the system we would support both deeds conveying rights in land and land contracts being permitted in electronic formal.

11. From the perspective of our members they need to be able to rely on electronic documents and electronic signatures in the same way as they currently do in the paper based system. The need to protect against fraud and forgery is vitally important for lenders.

12. It is however important that Registers of Scotland learns lessons from its Automated Registration of Title Project (ARTL) which lenders were supportive of and saw as having many benefits for them including a reduction in risk and the dematerialisation of deeds. Unfortunately the ARTL system has had limited use and questions are regularly raised of whether it is fit for purpose.

**Further contact**

13. This response has been prepared by the CML in conjunction with its members.

Council of Mortgage Lenders
19 January 2012