

For information

**LEGISLATIVE COUNCIL
PANEL ON DEVELOPMENT**

Personal Data in the Land Register

Purpose

This paper sets out the Government's response to Hon Alice Mak's concern about abusive use of personal data in the records of the Land Registry by money lenders and financial intermediaries as set out in her letter of 14 December 2015 to the Chairman of the Legislative Council (LegCo) Panel on Development.

The Government's Response

Statutory duties of the Land Registrar (LR)

2. The Land Registry is a public office responsible for registration of instruments affecting land and provision of land records in accordance with the Land Registration Ordinance (Cap. 128) (LRO) and the Land Registration Regulations (Cap. 128A) (LRR). As stated in the Long Title and Preamble of LRO, the purposes of keeping the Land Register and providing land records for public search are to prevent secret and fraudulent conveyances, and to provide means whereby the title to real and immovable property may be easily traced and ascertained. According to Regulation 21(1) of LRR, LR shall upon request and payment of the prescribed search fees make available records of the Land Registry to any person.

Current arrangement of search services

3. Currently, members of the public may search for records of the Land Registry through the following means –

- (a) online through the Integrated Registration Information System (IRIS) – Currently, more than 90% of the searches are conducted online through IRIS. Users may obtain copies of the records upon payment of the prescribed fees by credit card or PPS. Users may also apply to the Land Registry for becoming subscribers, which will enable the settlement of payment by autopay on a monthly basis;
 - (b) in person through the counters and self-service terminals at the Land Registry’s Customer Centre in Admiralty or New Territories Search Offices (NTSOs) – Users may obtain copies of the records through the counters or the terminals. Counter users may pay the prescribed fee by cash, cheque, credit card or EPS. Users of the self-service terminals may pay by credit card, PPS or Octopus.
4. Records available for search at prescribed fees include land registers, memorials and documents affecting land such as sale and purchase agreements, assignments, mortgages and legal charges, land grant documents, statutory notices and orders, etc. registered against the properties concerned.
5. There are currently over 20 000 searches conducted daily. Around 75% of the searches are conducted by subscribers of online searches. For the remaining 25%, about 15% are conducted by online users without subscription and 10% are by users of the counters and self-service terminals. Users notably include law firms, estate agencies and financial institutions that need the records of the Land Registry for property transactions and conveyancing matters.

Personal data in the records of the Land Registry

6. Records of the Land Registry may contain personal data, which is subject to the provisions of the Personal Data (Privacy) Ordinance (Cap. 486) (PDPO). Under PDPO, personal data must be used for the purpose for which the data is collected or for a directly related purpose, unless voluntary and explicit consent with a new purpose is obtained from the data subject. In case of contravention, the Privacy Commissioner for Personal Data (PCPD) is empowered under PDPO to

serve enforcement notices directing the data user to remedy and, if appropriate, prevent any recurrence of the contravention. A data user who contravenes an enforcement notice commits an offence and is liable to fine and imprisonment under PDPO¹.

7. To enhance the awareness of users of the Land Registry's search services about proper use of Land Registry's records and compliance with PDPO, the Land Registry has put in place the following administrative measures over the years –

- (a) notices have been put up at the Land Registry's premises reminding searchers that the use of information provided in the land records is subject to the provisions of PDPO;
- (b) IRIS and the self-service terminals at the Land Registry's premises require users to indicate their agreement to the "Terms and Conditions" of using the services, which include a restriction that the information provided shall not be used for any activity or purpose in violation of any provisions of PDPO, before accepting any order by the users;
- (c) land registers provided to users include a statement setting out that the purposes of the records and the use of information provided is subject to the provisions in PDPO. The relevant statement is also shown to users of IRIS after their search orders for Land Registry's records have been confirmed.

Further measures to enhance the protection of personal data in the records of the Land Registry

8. The records of the Land Registry serve the important function of preventing secret and fraudulent conveyances, and enable the title to real

¹ Under section 50A(1) of PDPO, a data user who contravenes an enforcement notice commits an offence and is liable —

- (a) on a first conviction —
 - (i) to a fine at level 5 and to imprisonment for 2 years; and
 - (ii) if the offence continues after the conviction, to a daily penalty of \$1,000; and
- (b) on a second or subsequent conviction—
 - (i) to a fine at level 6 and to imprisonment for 2 years; and
 - (ii) if the offence continues after the conviction, to a daily penalty of \$2,000.

and immovable property to be easily traced and ascertained, notably for property transactions and conveyancing matters. As mentioned in paragraph 5, there are over 20 000 searches conducted daily by law firms, estate agencies, financial institutions and other members of the public. Given the important function served by and the huge demand for the records of the Land Registry, due care must be exercised before introducing any measure which may affect the convenience and efficiency of conducting legitimate searches. Any such measure must be proportionate and must not cause undue inconvenience to members of the public who need to conduct searches for legitimate purposes. Moreover, the practicability and other implications of any such measure, including its impact on the resources and service delivery of the Land Registry, must also be considered.

9. As mentioned in paragraph 6, the personal data in the records of the Land Registry is already subject to the provisions of PDPO. PCPD is empowered under PDPO to take enforcement action against breaches of PDPO provisions. If there is any case of alleged breach of PDPO involving public searches of Land Registry's records, the Land Registry will refer the case to PCPD for follow-up. At the moment, we have no plan to amend LRO for imposing any additional sanction against abuse of personal data in the records of the Land Registry.

10. The Land Registry will continue to explore possible administrative measures to enhance the protection of personal data in the records of the Land Registry. For example, the Land Registry is planning to extend the measure under paragraph 7(b) above to users at its counters, such that they have to acknowledge the purpose statement and that the use of information provided in land records is subject to PDPO before they can place their search orders. Preparation work of this proposed enhancement measure is underway. Subject to the results of this proposed measure, the Land Registry will also explore with PCPD possible ways to enhance the protection of personal data in the records of the Land Registry under PDPO.

Development Bureau
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