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HM Revenue & Customs Research Report 24

Solicitors and Licensed Conveyancers

Experiences of Recording Stamp Duty

Qualitative Research Report

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Glossary of terms

Term / description	Abbreviation
Opinion Leader Research	OLR
HM Revenue & Customs	HMRC
Professional Support Lawyers	PSLs
Stamp Duty Land Tax	SDLT
Land Transaction Return	SDLT1
Stamp Duty Land Tax certificate	SDLT5
Complex Transactions Unit	CTU

Executive Summary

Introduction

Opinion Leader Research (OLR) was commissioned by HM Revenue and Customs (HMRC) to undertake research amongst solicitors and licensed conveyancers to explore attitudes towards, and changes to practices following the modernisation of stamp duty and in particular the introduction of Stamp Duty Land Tax (SDLT).

The primary objective of the research was to assess, and explore in detail, solicitors and licensed conveyancers' reactions to and changes to business practices following the introduction of SDLT. The research was intended to explore what impact SDLT has had on business practices, gather detailed information on the returns process, and assess reactions to the quality and availability of HMRC information and advice. There was also a need to assess reactions and opinions of e-business changes, as part of a move towards e-conveyancing.

Methodology

A qualitative approach was adopted for the study. A total of 50 firms were interviewed for the research, including 14 large firms, 18 medium firms and 18 small firms. Wherever possible or relevant researchers interviewed the following:

- A senior decision-maker who was able to discuss the impact of SDLT on the business practices of the firm
- A frontline member of staff responsible for completing the SDLT forms

As a result a total of 79 individual face-to-face interviews were conducted at practitioners' offices. In addition, a 1.5 hour group discussion with Professional Support Lawyers was also conducted.

Due to the qualitative nature of the research methodology and the relatively small sample size, it is not possible to reflect findings in statistical terms and the findings are not generalisable across the entire practitioner population. However, a qualitative

methodology does provide an opportunity to understand the depth and breadth of views held by respondents within the sample and the factors influencing these perceptions.

Main findings

Impact of SDLT on business practices and behaviour

- SDLT had only been in place for little over a year at the time of the research; as a consequence many practitioners were still finding their feet with the new system and were focused on getting the basics of the SDLT form completion correct. It emerged that misunderstanding of how to best make the system work for them was commonplace.
- The changes that occurred due to the introduction of SDLT were not initially welcomed by practitioners who regarded it as adding additional complexity to the conveyancing process with little discernible benefit to themselves and their clients.
- A few respondents welcomed the prospect of change, or said that change was an inherent part of their working life and therefore did not consider the changes to Stamp Duty to be either positive or negative. A few practitioners in the study said that having adjusted to the change, the system did not cause as many problems as they anticipated it would, and that once they had got it up and running it was generally working well.
- A negative perspective towards the SDLT changes derived from those who perceived that the old Stamp Duty system had worked sufficiently well. They considered it to have been simple and customer friendly from the practitioners' perspective, whereas in comparison the new system was seen as more complex and time consuming, and they criticised the changes for being brought in quickly (in the context of much change with the Land Registry process), and for subsequent system glitches and insufficient HMRC guidance and support.
- System change had impacted on business practices in two key ways: firms had put in place processes for getting the client's signature on the SDLT form in good time, and the more detailed and new nature of the forms also meant that some practitioners reported that more senior decision-makers (fee earners/partners) were

becoming involved in the minutiae of form completion therefore adding to the costs for the firm.

- Some practitioners had adapted better than others to the system change. Those with more skilled support staff to whom they could delegate form completion were generally more satisfied with the changes than those who lacked this support. Practitioners dealing with more straightforward residential transactions also found it easier to adapt to the changes over time than those dealing with more complex and commercial transactions. In addition those who were having very few forms rejected by HMRC were generally more satisfied.
- Factors which helped firms adapt more easily to the changes also included the extent to which the firm was more systems oriented and if they completed the forms on the computer successfully.
- Other firms that had adapted better than others were those who had received few or no forms returned from HMRC requesting more information. These respondents felt the system was working relatively well.
- Some senior decision-makers believed that over time they would become less involved in completing the forms as their assistants became more confident in completing them, while others believed that the complex nature of the forms would mean that they would always need to be involved more in the long term than previously.
- Many practitioners identified that the new system had led to them incurring increased on-going costs as the forms now took longer to complete than before. Costs were sometimes passed on by firms; this was easier in the commercial market and more difficult in the competitive high street residential conveyancing market. While the extra time to complete the forms was decreasing overall for straightforward transactions, practitioners identified that it was remaining the same for complex ones, as each new complex transaction brought with it a new set of queries to be resolved with HMRC.
- Practitioners in the research who dealt with straightforward residential transactions considered that ongoing costs were slowly decreasing over time. These practitioners were able to complete the SDLT forms more quickly as they became more used to the format and the codes required. As staff became more experienced

it took them less time to complete the form. The exceptions to this rule were those practitioners who were having a lot of forms rejected for being incorrect.

- Whilst some practitioners were unsure whether the system change had impacted significantly on stamp duty avoidance, a number of practitioners identified that it had reduced avoidance significantly, because:
 - The SDLT form required more detailed information
 - The taxpayer was more obviously liable as they were signing the form
 - HMRC was likely to open random enquiries
 - The legislation has been tightened closing loopholes which existed before
- Practitioners in the sample who were commercial specialists acknowledged that 'creative schemes' designed to avoid Stamp Duty did exist under the old system, which were no longer possible since SDLT had been introduced. Practitioners in the sample who worked in-house for large property companies were particularly aware that avoidance was much more difficult now.

Impact of SDLT on practitioner relationships

- Practitioners saw it as their duty to comply with the SDLT system. Fundamentally practitioners wanted to comply so that they could register with the Land Registry within the appropriate time in order to fulfil their obligations to their client and where relevant the mortgage lender, and to avoid receiving penalties from HMRC.
- Practitioners' relationship with the mortgage lender was important as practitioners had a duty to register ownership of the property before their priority period with the Land Registry ended. Problems in the SDLT process that caused delays to this created difficulties for practitioners and they were concerned ultimately about failing in their duty and being sued for negligence.
- Changes to Stamp Duty had not had an impact on the *nature* of the client/practitioner relationship, as although the client was now legally responsible for the contents of the SDLT form and were required to provide a signature, practitioners effectively acted as agents on their behalf.

- However, in some cases the changes had had some impact on the *quality* of the client/practitioner relationship when rejections or delays occurred as HMRC informed the client as well as the practitioner of these, causing the client to contact their practitioner in alarm. Practitioners disliked the time it took for them to resolve this and the prospect of it generating doubt amongst their clients as to practitioners' competency.

Problems associated with the SDLT system

- Practitioners encountered problems at various stages of the process; when they first completed the forms, when they sought help from HMRC on this, when they received rejected returns back from HMRC, and when they sought help from HMRC to control the errors.
- Some practitioners were still learning how to complete the forms so that they would not be rejected by HMRC. Where practitioners understood why a form was rejected e.g. because they had missed off the effective date or written outside the box, they believed that they were able to learn from their mistakes and not repeat them. They considered that they may have made fundamental mistakes initially but that with experience the extent to which they made these was decreasing as they became more familiar with the forms and the reasons for rejections.
- However, many practitioners were still getting used to what they regarded as the inflexible nature of the SDLT forms in comparison to the previous Stamp Duty system. The forms were considered inflexible because they required practitioners to complete structured information fields, as opposed to the previous system where they could just fill in the form in free-hand.
- Practitioners were frustrated when they felt unable to complete the form correctly including calculating the correct amount of consideration due. They identified a range of 'problem areas' which made it difficult for them to complete the form correctly – these problems concerned which forms to use and which parts of the forms to use, and the ability to interpret the legislation correctly.
- Practitioners also encountered problems in the processing of the forms, such as forms being rejected and delays in receiving the SDLT5 certificate.

- Many practitioners had experience of forms being rejected by HMRC for what was perceived to be no genuine reason, whilst they ascribed this to the HMRC scanning system it left them perplexed about how to avoid future rejections. The findings indicated that errors generated by HMRC also had the effect of masking errors generated by practitioners. Many practitioners were unable to see what remedial action they could take to decrease the number of forms that were being rejected and were looking to HMRC to improve their administrative systems for progress on this issue.

Quality and availability of HMRC information and guidance

- Practitioners perceived that HMRC guidance and support was adequate and helpful for basic residential freehold transactions. The guidance notes were described as clear and comprehensive, though in some cases the initial reaction to the length of them was one of concern. Advisors at the helpline were described by some practitioners as polite, friendly and helpful and their advice clear regarding more simple queries. In addition, the online lease calculator was considered to be essential by many practitioners in helping them calculate the correct amount of consideration due.
- Practitioners who contacted the Complex Transactions Unit (CTU) praised the professional advice they received. However, this service did not appear to be accessible to all, and there were some indications that practitioners who worked in smaller firms were less likely to have been able to contact it.
- Practitioners considered that with the more complex transactions HMRC often did not deliver the help they needed to feel comfortable that they had completed returns correctly. They perceived that guidance and support for more complex queries was difficult to access, and they criticised the fact that definitive guidance was not available for some aspects of SDLT such as leases.
- Practitioners also criticised the support provided by the helpline, which was considered difficult to gain access to. Practitioners believed this delayed them getting answers to help them complete the forms. They were unhappy that there was limited opportunity to resolve problems by engaging with HMRC in an easy way.

- Practitioners perceived that some of the guidance had changed over the months that SDLT has been in place and that it had become difficult to keep up with these changes.
- As a result, many practitioners perceived that HMRC had largely left them on their own to try and make sense of the legislation and complete the forms correctly. Whilst HMRC had provided considerable customer education before and after the launch of SDLT, practitioners were not necessarily aware of this and therefore they did not perceive that this was adequate in preparing them properly for SDLT. It seemed that information was possibly not reaching enough practitioners who were involved in the day-to-day completion of the forms.
- Many respondents wanted to have more guidance and support, and more consistent guidance from HMRC in terms of providing answers to questions regarding form completion and the interpretation of Legislation. Respondents were keen that HMRC should:
 - Provide a complete and updated guidance manual
 - Increase the resources of the helpline to improve its availability
 - Increase the number of helpline staff trained to answer complex queries
 - Enable frontline helpline staff to access and track the progress of individual SDLT returns

Practitioner attitudes towards e-business and online services

- The key benefits to practitioners in terms of using e-business and online services were identified as:
 - Increased speed
 - Easier access to information
 - Simplification and streamlining of some processes
- Those who were positive about completing SDLT returns on computer identified the benefits to be the greater speed that data could be inputted and the fact that there were prompts to make sure that the form was completed correctly.

- Practitioners generally accepted that they will increasingly move towards e-business and online processes for conveyancing, but there were a number of barriers preventing many respondents embracing this move fully for SDLT. Respondents perceived the key barrier was the fact that the client had to sign the SDLT return and they were not aware of moves HMRC had taken to overcome this problem.
- Respondents located at all points all along a spectrum, from IT embracers to IT resistant, were positive about the possibility of completing the SDLT form online in the future if the client's signature was not required. They hoped that this could solve many of the problems and delays they were experiencing in using the SDLT system by saving time and reducing the likelihood of error.

Practitioner suggestions for improvements to the system

- Suggestions for improvements to the system included:
 - Changes to the forms to accommodate more complex transactions
 - More guidance and support, and more consistent guidance from HMRC
 - HMRC should impose greater quality control to reduce the number of rejected forms
 - Introducing agent status so that the client did not have to personally sign the form
- Practitioners identified that the SDLT change was still fresh for them having only been in place for little more than a year at time of interviewing. Research would need to take place at a greater distance from the introduction of the changes in order to be able to differentiate robustly between general negative perceptions of the shorter term impact of change and the reality of the long-term impact on practitioners.

Chapter 1 – Stamp Duty Land Tax research

1.1 Introduction

Opinion Leader Research (OLR) was commissioned by HM Revenue and Customs (HMRC) to undertake qualitative research amongst solicitors and licensed conveyancers involved in the recording of Stamp Duty Land Tax (SDLT).

The background to the study and the overall study aims are presented below. Chapter 2 outlines the methodological approach that was adopted. Chapters 3 to 8 report the main findings. In summary, these explore the following topics:

- The impact of SDLT on business practices and behaviour (chapter 3)
- The impact of SDLT on practitioner relationships (chapter 4)
- Problems associated with the SDLT system (chapter 5)
- The quality and availability of HMRC information and guidance (chapter 6)
- Practitioner attitudes towards e-business and online services (chapter 7)
- Practitioner suggestions for improvements to the system (chapter 8)

The final chapter presents the research conclusions. The discussion guide used in the interview is appended at the end of the report.

1.2 SDLT: Research background

1.2.1 Rationale for the changes

HMRC is undertaking an extensive programme of work on modernising stamp duty. The objectives of modernisation are:

- Fairness – the Government was concerned about the increasing extent to which stamp duty was being avoided. The use of artificial arrangements to avoid stamp duty on commercial property transactions is unfair to the compliant majority, particularly to small businesses acquiring premises and individuals purchasing their homes

- E-business – to create a system that supports the Government’s e-business agenda, and in particular the introduction of electronic conveyancing, which will make the house-buying process simpler, quicker and more efficient.
- Modernisation – to create a legal framework for stamp duty in line with more modern taxes, providing a level playing field and creating a charge that is based more on the substance of transactions.

Stamp duty modernisation primarily involves two phases. The first phase has been completed and involved a major reform to the legislation with the introduction of SDLT, which was legislated in the 2003 Finance Bill. The second phase is ongoing and involves making changes to accommodate the introduction of land registry electronic conveyancing systems.

1.2.2 Description of the changes

Stamp Duty was replaced by a new tax, SDLT on 1 December 2003. It replaced the ‘old’ Stamp Duty on purchases of houses, flats, and other UK land and buildings. SDLT is a modern transaction tax on land transactions involving any estate, interest, right or power in or over land in the United Kingdom.

The main changes under SDLT were that documents no longer had to be sent to the Stamp Offices for ‘stamping’ and a new simpler transaction form was introduced, a land transaction return (SDLT1). The rates for buying a residential property remained the same under SDLT, but the zero rate band for non-residential property increased from £60,000 to £150,000.

It became the purchasers’ responsibility to make sure that the land transaction return is completed correctly and that any SDLT is paid. In the majority of cases a solicitor or licensed conveyancer will act on behalf of the purchaser dealing with the transaction and completing the land transaction return (but the purchaser must sign the return). The completed land transaction return, and any payment of SDLT due, must be sent to HMRC within 30 days of the effective date of the transaction (the effective date for the

majority of purchases will be the completion date). Failure to submit a return or make any payment more than 30 days after the filing date will result in the purchaser automatically getting a £100 penalty if no more than three months late, and a £200 penalty if more than three months late.

If the return is not delivered within twelve months after the filing date, the purchaser is liable to a penalty not exceeding the SDLT liability. If the purchaser fails to comply with a notice to deliver a return where the filing date has passed, HMRC can apply to the Commissioners for maximum penalties of up to £60 per day until the return is filed.

Tax geared penalties also apply to fraudulently or negligently incorrect returns, and to failures to correct errors in returns. Penalties can also be imposed for offences including the fraudulent evasion of tax and assisting in the preparation of an incorrect return.

When HMRC receives the return it processes it and issues a certificate providing the form is complete and correct and checks verify the calculation of SDLT due. HMRC will issue a certificate, which must be sent to the Land Registry to enable the property to be registered in the purchasers' name.

The new SDLT return form has been designed to provide more information than the form used under the previous Stamp Duty system. It requires additional information, including the buyer's National Insurance number and contact details of the seller and the seller's solicitor. The old form could be completed 'freehand', whereas the new form has boxes for individual letters and numbers. The new form was designed to be electronically readable by HMRC, using scanning equipment, or completed electronically and scanned using a bar code. Practitioners will soon be able to send the form to HMRC via the internet.

1.3 Aims and objectives

The specified research aims of this study were as follows:

- I. **To explore what impact SDLT has had on business practices** – to explore in detail:
 - Had there been any changes to business practices following the introduction of SDLT?
 - Had there been any administrative costs associated with SDLT?
 - Had SDLT simplified the process?

- II. **To gather detailed information on the returns process** – to identify in detail:
 - Were any problems associated with completing the land transaction return?
 - Who completed the return within the firm?
 - Why were forms being completed incorrectly?
 - Could any improvements be made to the process/system?
 - How were practitioners dealing with related transactions?

- III. **To explore reactions to and use of e-business and online services** – to identify in detail:
 - Solicitors' and licensed conveyancers' views and opinions of the online services
 - Explore use of services
 - Had the online service improved the SDLT process?
 - Were there any difficulties with the online services?

- IV. **To assess the quality and availability of HMRC information and guidance on SDLT** – to explore in detail
 - Use, awareness, and reaction to HMRC information sources
 - Were solicitors/conveyancers able to access the information they needed?
 - Was the information getting through to the right person?

A range of more detailed objectives were also covered in the research and these are included in Appendix 1.

Chapter 2 – Research methodology

2.1 Research methodology

A qualitative approach was adopted for the study. A total of 50 firms were interviewed for the research, and wherever possible or relevant researchers interviewed the following:

- A senior decision-maker who was able to discuss the impact of SDLT on the business practices of the firm, and
- A frontline member of staff responsible for completing the SDLT forms

As a result a total of 79 individual face-to-face interviews were conducted at practitioners' offices. In a number of firms, by the time researchers arrived for the interviews two decision-makers rather than one frontline staff member and one decision-maker wanted to take part. As a result these findings are predominantly based on the views of senior decision-makers rather than those of frontline staff members. This reflects the interest that many senior decision-makers had in communicating their views on SDLT to HMRC.

In addition, a 1.5 hour group discussion with Professional Support Lawyers (PSL) was also conducted. This was not originally planned for but was suggested by a PSL within a top firm. This is explained in more detail in section 2.3.4 below.

To encourage respondents to be as candid and forthcoming with their opinions as possible, all the individuals who took part were reassured of the anonymous and confidential nature of the study.

Fieldwork was conducted in January and February 2005. Each interview lasted up to 50 minutes. Interviews with senior decision-makers tended to be longer than those with frontline staff/secretaries whose focus was on the functionality of the new process, but who had less to say about the wider implications of the change to SDLT. All interviews were tape-recorded and transcribed verbatim. A copy of the discussion guide can be found in the Appendix.

Due to the qualitative nature of the research methodology and the relatively small sample size, it is not possible to reflect findings in statistical terms and the findings are not generalisable across the entire practitioner population. However, a qualitative

methodology does provide an opportunity to understand the depth and breadth of views held by respondents within the sample and the factors influencing these perceptions.

2.2 Recruitment process

A sample of firms were sent a letter which explained about the research. OLR's in-house call centre then contacted firms to recruit them to the research, firms were asked a number of screening questions on contact to discover:

- Whether they were residential or commercial conveyancers (those firms who did not do residential conveyancing were screened out)
- Whether they were a firm of solicitors or licensed conveyancers only
- Size of firm in terms of number of employees who dealt with conveyancing
- Average number of transactions dealt with per year
- Whether they had more than 2 years Stamp Duty experience (those who had not had experience of the old system were excluded as they would have been unable to provide feedback comparing the old with the new system)
- Whether they were a senior decision-maker or a frontline staff member

The main recruitment challenges derived from the logistics of obtaining the appropriate sample quotas and receiving the information through from firms in good time. In many cases, the relevant person to speak to may be interested in taking part but they were too busy to discuss this at that moment in time, or their secretary/assistant was reluctant to put the call through. In response to this situation, OLR adapted the screening questionnaire into a self-completion questionnaire which could then be e-mailed or faxed to practitioners for them to complete at their leisure.

Whilst the screening questionnaire made it clear that answering the questions did not guarantee that we would book and interview everyone contacted (due to our own need to manage the size quota), it emerged that we had a surplus of firms keen to take part.

In 3 instances we conducted 30 minute telephone interviews with medium size firms (where there was a particular surplus) instead of interviewing them face-to-face; these interviews were conducted in addition to the 50 interview sessions included in the sample.

2.3 Sample specification

2.3.1 Depth interviews

Participants were recruited by telephone by OLR from a list of firms generated by OLR.

The sample was designed as follows:

- Number of employees involved in SDLT within the firm (small = under 4, medium = 5 to 25, large = over 25)
- Including solicitors and licensed conveyancers (9 firms were pure licensed conveyancers only)
- Also including in-house solicitors from large property firms
- All firms had to be doing residential conveyancing, but we also included firms who did commercial conveyancing (only 8 firms just did residential conveyancing)
- Some respondents using HMRC information/guidance (all had used this)
- Some firms using E payment for SDLT (11 firms)
- Interviews were conducted in Exeter, Newcastle, Liverpool, London, Coventry, Canterbury, Swansea, Glasgow, Belfast (minimum 4 firms in each area)
- We also monitored the number of SDLT transactions per year that firms were doing. Whilst size of firm in terms of number of employees did not automatically correspond to size of firms in terms of number of SDLT transactions per annum (some small conveyancing firms were doing 600+ per annum, and some large firms were doing 100 per annum) broadly speaking the larger the firm, the more transactions they were doing. This is illustrated in Figure 1 where we have calculated the approximate number for each sample segment. It's important to note that not all respondents were able to estimate how many returns they were doing per annum (pa) and these figures were for the most part top of mind estimates.
 - 14 firms were doing less than 100 SDLTs pa

- 7 firms were doing between 101 and 250 SDLTs pa
- 10 firms were doing between 251 and 700 SDLTs pa
- 6 firms were doing between 701 and 1,000 SDLTs pa
- 7 firms were doing over 1,000 pa
- 6 firms were unsure of the volume of SDLTs pa

Figure 1 shows the spread of the final sample across the recruitment categories.

Figure 1: Final sample spread

Company Size	Spectrum of approx number of transactions p.a.	Solicitors in law firms and Licensed Conveyancers	Solicitors in large property firms	Total
Small (under 4 employees dealing with SDLT)	Ranging from 40 to 600 Average was approx 215 pa	18 x firms		18 x firms
Medium (between 5 and 25 employees dealing with SDLT)	Ranging from 90 to 2000 Average was approx 535 pa	18 x firms		18 x firms
Large (over 25 employees dealing with SDLT)	Ranging from 100 to 6000 plus Average was approx 1186 pa	8 x firms	6 x firms	12 x firms
TOTAL		44 x firms	6 x firms	50 x firms

2.3.2 Changes to the sample quotas

The initial sample quota had been:

- Small firms – 16
- Medium firms – 16
- Large firms – 12
- Large property firms – 6

With an equal split between solicitors and licensed conveyancers.

As recruitment progressed, some difficulties arose which were addressed so that the final sample was the one outlined in Figure 1:

- There were few sole licensed conveyancing firms in the UK compared to firms of solicitors
- Large companies were more difficult to recruit in terms of:
 - Identifying firms with more than 25 employees involved in SDLT
 - Larger firms tend to handle more commercial conveyancing and did not do residential conveyancing – this excluded them from taking part
 - Willingness of senior decision-makers to take part – within the larger firms these individuals' time was more expensive and more limited than in smaller firms, and their assistants were gatekeepers who could be reluctant to put calls through
- We therefore agreed with HMRC that the number of large firms recruited should be reduced from 12 to 8 interviews, however this was balanced by conducting the group of 17 PSLs and senior decision-makers from the top 50 law firms

2.3.3 Sample selection process

OLR was responsible for sourcing the sample. This was sourced for England and Wales using the website of the Council for Licensed Conveyancers (CLC) (<http://www.theclc.gov.uk/>) which had a full and comprehensive list of solicitors and conveyancers. The list was broken down geographically by region therefore it was possible to source sample quota for the areas agreed with HMRC. In the areas where the sample size was smaller than the required sample, the sample was bolstered by sourcing additional names of solicitors and conveyancers from the Yell website.

For the sample from Northern Ireland and Scotland it was more difficult to source such a comprehensive list. The lists used were from the Scottish Law Society website (<http://www.lawscot.org.uk/>) and the Law Society of Northern Ireland website (<http://www.lawsoc-ni.org/down.htm>). The Scottish and Northern Irish sample was also bolstered by additional internet sourcing using the Yell website. The sample lists seemed to be a fair representation of firms and no bias was detected in these.

2.3.4 Additional group discussion

During the recruitment process, a Professional Support Lawyer (PSL) from one of the top 10 largest law firms in the UK contacted HMRC to express an interest in convening a group of PSLs from similar firms to discuss the impact of SDLT.

HMRC gave permission for a group discussion along these lines to be carried out in addition to the one-to-one interviews. The group discussion included 17 participants ranging from PSLs to partners and tax specialists. All participants were working in the real estate divisions of the largest 50 law firms in the UK. In total, 10 firms were represented at the group discussion. However as this was just one group discussion, there are limitations on the extent to which the findings can be reported back separately from the bulk of the depth interviews.

This group differed from the main bulk of the sample as:

- The focus of the firms' work tended to be more on the commercial conveyancing than the residential conveyancing side (respondents were not screened for the main research recruitment criteria beforehand as they were self-selecting)
- The firms were all large ranging from 200 to 3,000 staff in total, and from 60 to 400 employees involved in SDLT
- A number of respondents found it difficult to give a reasonable estimate of the number of SDLT transactions conducted per annum by their firm, so the approximate range was a rough guess of 150 plus for one firm to 12,000 per annum for another, with numbers in the 'hundreds or thousands' for the rest
- The group discussion was an opportunity for them to share the problems they had encountered with SDLT with their peers, and the focus of the discussion was very much on the problems encountered in the process change
- It was not possible to explore in depth with each participant the processes used within the time-frame because of the large number of participants

Chapter 3 – The impact of SDLT on business practices and behaviour

Summary

- In this chapter we will focus on the impact that the introduction of SDLT has had on business practices and behaviour
- System change was not welcomed by practitioners who regarded it as adding additional complexity to the conveyancing process with little discernible benefit to themselves and their clients
- Negative practitioner attitudes towards the changes were compounded by the context in which it was introduced, following significant changes to the Land Registry process in 2003
- There was concern about the perceived speed in which the changes had been implemented; practitioners would have liked more HMRC guidance and support to help make sense of the new system, in terms of the information available on the website and in printed form
- System change had impacted on business practices in two key ways: firms had put in place processes for getting the client's signature on the SDLT form in good time, and the more detailed and new nature of the forms also meant that across the sample more senior decision-makers (fee earners/partners) were becoming involved in the minutiae of form completion
- Whilst some senior decision-makers believed that over time they would become less involved in completing the forms as their assistants became more confident in completing them, others believed that the complex nature of the forms would mean that they would always need to be involved more in the long term
- Practitioners who had more skilled support staff that they could delegate to were generally less dissatisfied with the changes than those who lacked this support, because support staff completed the forms for them and therefore this caused the practitioner less personal inconvenience and time

- Practitioners dealing with more straightforward residential transactions also found it easier to adapt to over time than those dealing with more complex and commercial transactions
- There were some slight differences between size of firm, as those in larger firms tended to have more skilled support staff which could make it easier for them to adapt, however this was counter-balanced by the fact that the larger the firm, the more time and resources were often needed to be put in place effect system change
- Other factors that helped firms adapt more easily to the change were those who were more systems oriented and those who were completing the forms on the computer.
- Practitioners identified that the new system had led to them incurring increased on-going costs as the forms now took longer to complete than previously. Costs were sometimes passed on by firms; this was easier in the commercial market and more difficult in the competitive high street residential conveyancing market
- Whilst some practitioners were unsure whether the system change had impacted significantly on stamp duty avoidance, a number of practitioners identified that it had reduced avoidance significantly because they perceived that the form required more detailed information, the purchaser was more obviously liable, the legislation had been tightened and HMRC was likely to open random enquiries
- Practitioners identified that the SDLT change was still fresh for them having only been in place for little more than a year at time of interviewing. Research would need to take place at a greater distance from the introduction of the changes and the early system glitches that were still inherent at the time of the research (discussed in subsequent chapters) in order to be able to differentiate robustly between general negative perceptions and the reality of the long-term impact on practitioners

3.1 Reaction to system change

The dominant response of practitioners in the study to the idea of change was negative. When they saw the proposals detailing how the system was going to change, they anticipated that it would be more complex to deal with and would take more time. Respondents commonly described their initial response to news that the Stamp Duty system was changing as one of 'horror'.

"Oh no, please, It was literally 'oh God, no'." (4 – Small conveyancing, frontline staff)

"A large groan, probably a few expletives as well, which remain" (7 – Medium solicitors, senior decision-maker)

A number of practitioners in the study admitted that any change to an old, familiar system would provoke a negative reaction, and in some cases a fearful one. However, practitioners identified that the scale of the impact of Stamp Duty system change was compounded by these taking place against a backdrop of large-scale changes to Land Registry processes. Respondents said they did not have a chance to get used to the earlier changes before having to deal with the change to Stamp Duty.

"Oh God really. I mean it's a difficult subject at the best of times. The idea that it was all going to change and the way in which it was going to change. I mean we had a double whammy that year because we had great changes to the Land Registration Act and we had Stamp Duty changing as well. Poor old people like me, it's quite difficult to cope with all these changes. And the Stamp Duty changes were really pretty enormous." (5- Large solicitors, senior decision-maker)

"I felt it was a bad time for the change to be implemented. The reason for this was that the profession had seen a number of fundamental changes to the way that conveyancing has been dealt with" (3- Medium solicitors, senior decision-maker)

However, this reaction was not universal. Some respondents welcomed the prospect of change, or said that change was an inherent part of their working life and therefore did

not consider the changes to Stamp Duty to be either positive or negative. Practitioners working within property firms providing in-house conveyancing services were generally less concerned about the prospect of change as the volume of SDLT transactions they conducted was fewer, and it was more of a peripheral aspect of their workload compared to practitioners in firms involved in conveyancing.

“Well, I suppose no great reaction until I understood a little bit more about what was proposed and the reasons for it. I think when I understood that, sort of not really very surprised” (1 - Large property firm, senior decision-maker)

Consistently across the research, practitioners identified that the SDLT change was still fresh for them having only been in place for little more than a year at time of interviewing. Research would need to take place at a greater distance from the introduction of the changes and the early system glitches that were still inherent at the time of the research (discussed in subsequent chapters) in order to be able to differentiate robustly between general negative perceptions and the reality of the long-term impact on practitioners.

3.2 Understanding of the reasons for changing Stamp Duty

When asked, practitioners identified a range of reasons they believed for the change to the Stamp Duty system, which included:

- Enabling government to gather and share more information about taxpayers
- Raising revenue from SDLT and penalties
- Making the system more efficient through automated processes

In a number of cases, practitioners who had been on courses to learn about SDLT were able to reproduce HMRC’s stated reasons for the changes. Frontline staff, particularly secretarial or administrative staff, had little idea of the reason behind the changes, but unlike more senior staff they were indifferent to the reasons for the change.

“Well, their objective was to avoid stamp duty avoidance.....it was mainly to stop that, that was my impression” (13 – Large property firm, senior decision-maker)

‘Probably to get more money in’ (14 - Medium conveyancing firm, senior decision-maker)

“I think that it’s quite a clever money making scheme on the part of the Inland Revenue which is quite frustrating. And I think that it’s an information gathering exercise for the Inland Revenue as well” (3 – Medium solicitors, senior decision-maker)

“I think they’re trying to spot individuals who are buying and selling houses and collate information on them, and hence why the National Insurance number’s needed. I feel certain that’s it to build up profiles of individuals and to obviously give the Inland Revenue more information about who’s buying and selling, that was my initial impression. I couldn’t see any other reason for doing it to be honest” (15 - Large solicitors, senior decision-maker)

3.3 Impact on business practices

3.3.1 Overview

The system change was perceived to have impacted on business practices in a number of ways. These derive from:

- The legal requirement for the purchaser to sign the form
- The need to get used to more detailed forms with prescribed spaces for inputting information
- The need to return the SDLT forms to a central HMRC point

All of these have had a significant impact on processes within firms. However, some firms and practitioners have found these easier to adjust to than others.

3.3.2 Previous practice within firms

Under the old Stamp Duty system, Stamp Duty was commonly dealt with after completion. The one page 'free-hand' form was completed solely within the firm, the client was not involved and did not need to sign it, and the practitioner had control of the process. The form was more simple and was often completed by a more junior frontline staff member or dictated by the senior decision-maker for them to complete.

It was possible for practitioners to call the local Stamp Office if they had questions about the amount of tax due, and to get the form stamped at the local office quickly to enable the practitioner to then send it to the Land Registry to register ownership soon after completion.

Practitioners valued their Stamp Office because it was local and they were able to build up a relationship with an individual or a number of individuals, they were able to consult that individual if the calculation of Stamp Duty was unclear and get firm guidance on the level due, and because there were rarely delays in getting documents stamped. Practitioners in Northern Ireland particularly valued their local Stamp Office as they believed it understood the particular legal and social environment of the region.

The quick processing time meant that practitioners were confident of being able to register ownership with the Land Registry within the search priority period of 30 days.

"Under the old system it was entirely within our control, the form took perhaps five minutes to fill in, you could trot down to English House, you then got the documents back within days. And now it takes perhaps an hour and a half to fill in the form, and then weeks and weeks to get the form back" (PSL group)

"Well I suppose before we would have to wait for the stamp transfer to come back before submitting it to the Land Registry but now we have to wait for the SDLT5 to come back, so it's just we're still waiting for something to come back. But I have had one case where the SDLT5 went missing in between leaving the Inland Revenue and arriving at our offices and this was a case where the certificate was issued in October and despite my chasing and chasing the Inland

Revenue and complying with ridiculous request after ridiculous request, it still was not forthcoming” (30 – Medium solicitors, senior decision-maker)

3.3.3 Scope of new practices within firms

The imperatives of the new SDLT system meant that practitioners regarded it essential to get the return signed by their client as soon as possible. Without that signature, HMRC would not process the return and would not send back the SDLT5 certificate that was needed to register ownership with the Land Registry.

In the past, practitioners could fill in the old Stamp Duty form after completion because it did not need the client’s signature. Now, it had become safe practice for practitioners to get the client to sign the new SDLT form before completion – before or around exchange of contracts, and in some firms even earlier than this.

Firms had devised a number of ways to achieve this:

- Most common: client signing a blank form or partially completed form when they signed other papers face-to-face at firm’s offices before or at exchange
- Most common: practitioner completing most of the SDLT form and posting it with an explanatory letter asking client to complete some details (such as their NI number) and sign
- Less common: practitioner posting a blank form out for clients to sign

Because the form was often partially completed before contracts had been completed, the effective date of completion was often the last aspect to be completed by the practitioner. Once this was entered, the form was sent to HMRC.

Practitioners stated that their role as agents was to act on behalf of their clients to the best of their ability. They therefore perceived that the logical outcome was to be trusted to enter accurate information on the SDLT form. Practitioners regarded the client’s signature as being a procedural step rather than a significant step in terms of the client

taking responsibility for the content of the return. Overwhelmingly, practitioners regarded the complicated nature of the SDLT form to be difficult for a lay person to understand, and believed that most clients were uninterested in checking the form. Only a few practitioners stated that they asked their client to check the form.

As a result of these factors, whilst it was necessary for practitioners to obtain the client's signature, the 'ethics' of obtaining a signature before the form was absolutely complete was not a significant consideration for many practitioners. Some practitioners had discovered through experience that if they did not manage the process of obtaining the client's signature closely, this could introduce delays in the system which would not only mean that they would potentially fail to register the property with the Land Registry in time but they would incur penalties from HMRC for not submitting a correct form in time. This was of more importance to them than the extent to which the client's signature was obtained before or after all the information on the SDLT return was complete.

"They're a nuisance to be honest, because I mean you've got to send it off to your client, and then you've got to remind your client to send it back to you. And you're under deadlines for getting your Land Registry application in, if they (clients) don't send the form back to you, I mean it just creates extra stress as a practitioner to be honest" (35 – Medium solicitors, senior decision-maker)

Not all practitioners in the study asked their clients to sign the forms before the sale was complete. A few respondents dealing with simple transactions said that they completed the SDLT form and asked the client to sign it after the sale was completed, although they also talked about changing their processes and getting it signed before completion to provide more control and less scope for delays.

Also, some practitioners who were dealing with complex commercial transactions did not complete the form or get it signed before the sale was completed because the nature of the deals meant that negotiation over the precise structure of the transaction could continue up to the last minute.

3.3.4 Attitudes towards the impact of the change

Many practitioners identified that their initial concerns about the impact of SDLT were realised when the system came into effect. They had needed to invest considerable time in understanding the changes to the legislation, to work out how the new forms needed to be completed and to set up internal processes to deal with the new system. They universally agreed that the new system was more complex, and did not believe it had simplified the Stamp Duty process from their perspective.

“We were a bit horrified...the length of the forms, the fact that before we just had a PD form to complete, a one pager, and suddenly we have several pages with codes. I think look up things, look up codes for various things, and of course we have to get the clients to sign it which effectively means you have to get it all in readiness before completion which, it’s a lot really, a lot for us to do” (40 – Small solicitors, senior decision-maker)

“Yeah, I must say...actually completing the forms, some of the information required on the form, in total unfriendliness in the way the form is laid out was quite a shock, and it’s still poor, very poor. It’s one of the worst forms I’ve ever seen actually” (8 - Medium solicitors, senior decision-maker)

“I wouldn’t say that I’ve seen any benefits to my job in filing the forms in, no not really” (9 - Large solicitors, frontline staff member)

“They do take up a lot of time, even though now we’re used to them, but we still have to be careful that people have filled them in correctly. So if we have a heavy workload, it does take up a bit more time’ (6 – Small conveyancer, frontline staff member)

They were also dismayed by the speed with which SDLT was introduced before they felt HMRC had been able to inform practitioners adequately and get in place the necessary systems to cope with the change. Although some practitioners were aware of the events organised by HMRC to introduce the changes before December 2003, there was limited spontaneous acknowledgement that these had helped them to adjust to the changes. Firms using case management software discovered that the SDLT forms were not ready in time which meant that they had to resort to completing them manually.

“We needed to incorporate the SDLT1 forms within our case management system at the time but the ones which the Inland Revenue had produced weren’t compatible apparently with the bulk of case management systems used by conveyancing firms” (3 - Medium solicitors, senior decision-maker)

A few practitioners said that having adjusted to the change, the system did not cause as many problems as they had expected, and that once they had got it up and running it was generally working well.

“The very simple transaction forms work brilliantly, and it’s much easier because we can work through them a lot quicker than the old PD forms. You get into a much easier routine. And it’s easier for a non-solicitor to fill them in. So, for example, my assistant finds them much easier” (19 – Medium solicitors, senior decision-maker)

3.3.5 Variations between support available to senior decision-makers

Many senior practitioners now felt unable to fully delegate completion of the SDLT form to secretarial or administrative staff. Under the previous system, the Stamp Duty form was often delegated to more junior staff. Respondents gave a number of reasons for the need for more senior or experienced staff to be involved in the minutiae of SDLT form completion:

- They considered the forms to be too complex for their support staff to complete correctly
- They believed that some aspects of the legislation and the guidance were ambiguous and unresolved, for example in respect to leases
- They considered that there was an imperative to minimise rejections as they needed to receive the SDLT5 certificate and register the transaction with the Land Registry

The degree to which practitioners were able to delegate SDLT form completion had an impact on their satisfaction with the new system. Practitioners who had more skilled

support staff and who were therefore confident in being able to delegate the completion of the SDLT form were noticeably less dissatisfied than those respondents who were not able to do this.

“I’m the Conveyancing Partner. I deal mainly with commercial conveyancing, commercial property and I supervise the residential property conveyancing. We all do our own paperwork as it is so I would complete my own SDLT forms in connection with all the transactions that I deal with” (43 – Small conveyancers, senior decision-maker)

“What we do is on the ordinary freehold properties we ask the secretary to have a go doing the form. If they’re reasonably experienced and there’s not usually too much of a problem with that, they don’t have any problem now, they know where to look up the codes and so on. Leasehold forms I don’t ask my secretaries to do because I think, new leases I think they’re just too difficult, so I do those myself” (48 – Medium solicitors, senior decision-maker)

There was some evidence of differences between firms of different sizes (and overall size of firm in terms of number of employees broadly corresponded in terms of the number of transactions per annum that firms were doing). Senior practitioners in many small and medium sized firms had become more involved than they were with Stamp Duty. In larger firms, senior practitioners were more likely to have a pool of skilled support staff available. In the very largest firms, senior decision-makers were able to delegate form completion to trainee solicitors, however the rotating nature of the trainee role in large firms meant that when after several months they moved on to another part of the business, the knowledge they had accrued was effectively ‘lost’. Some small and medium sized firms were fortunate in having skilled conveyancing assistants or experienced legal secretaries who had worked in conveyancing for years.

In the larger firms, the better systems in place and more skilled support was counter-balanced by the fact that the larger the firm, the more time and resources were often needed to be put in place to effect system change which created difficulties for them. PSLs were particularly vocal about this.

“And to try and train in your group of 30, 40 people to that sufficiently high standard and keep them all apprised of all the changes is a nightmare” (PSL group)

3.3.6 How satisfaction varied between types of firms

The degree of practitioner dissatisfaction with the new system was also influenced by a range of other factors.

Practitioners who dealt with straightforward ‘high street’ residential transactions had discovered that over time the forms became easier and quicker to complete. Once they had grasped how the forms worked and which codes to input, each new transaction was fairly similar to the previous one. As staff became more experienced it took them less time to complete the form.

“They are definitely taking less time to complete” (9 – Large solicitors, frontline staff member)

Other firms that had adapted better were those who had more of a systems culture to handle the process and those who were completing the forms on the computer successfully.

“It’s the way the system, that we work, and we work well together so that’s what happens you know, it’s signed, it’s filled, it goes off” (16 – Medium conveyancer, senior decision-maker)

Practitioners who were more satisfied were also those who had received few or no forms returned from HMRC requesting more information. These respondents felt the system was working relatively well.

In contrast, practitioners involved in commercial conveyancing and those who regularly undertook more complex transactions had discovered that they were unable to delegate

form completion as they were continually on new ground with each transaction, and in order to complete the several SDLT forms needed for these transactions they needed to refer to a lot of paperwork and files specific to the case. Their dissatisfaction was compounded by their frustration at being unable to access definitive guidance from HMRC easily to help smooth the process.

3.4 Impact on costs

Respondents reported that they had incurred increased costs as a result of the change to SDLT.

There had been a variety of set up costs, including training costs. These ranged from tangible costs of practitioners attending formal courses run by private course providers as well as information events run by HMRC, to the less tangible time costs of senior practitioners learning how to complete the forms and then cascading their knowledge down through the organisation.

As well as formal training, practitioners and their support staff had to familiarise themselves with the forms in a practical sense. Even once it was clear how to complete the forms, respondents still needed to get used to the process of finding the right information and putting it in the correct place on the form.

For the largest firms the new SDLT system required them to develop proprietary IT systems, for example developing in-house lease calculators.

However, practitioners were most concerned about the on-going costs. They identified the increased time to complete forms as adding to their costs. All respondents said that the new forms took longer to complete than the old forms, with the extra amount of time ranging from 10 minutes to several hours, depending on the complexity of the transaction and the number of forms the respondent habitually completed. The fact that many senior decision-makers had become more involved in the SDLT process meant

that the increased time it took to deal with the return had a greater cost impact on firms than would have been the case had more junior staff still been completing the return.

In addition, practitioners identified the cost of the time spent resolving queries with HMRC. Respondents were unhappy with the amount of time it could take to resolve queries at all stages of the process, including preparing to file a form, dealing with queries after the form was submitted and trying to deal with problems of lost forms or SDLT5 certificates not being issued.

“It’s added work, it’s more difficult to get a return on that sort of work because it’s really just clerical, but in fact it adds quite an appreciable amount of time to the work that we are asked to do” (5 - Large solicitors, senior decision-maker)

“And I think another aspect of the forms was gosh, these are very, very long and how can we justify completing these forms within the financial constraints that firms have for dealing with conveyancing matters and I know that the approach of a number of firms has been to, and ourselves included, has been to actually charge an additional fee to clients for completing the forms on their behalf.” (3 - Medium solicitors, senior decision-maker)

“Well, the real cost is solicitors’ time” (10 – Small solicitors, senior decision-maker)

Generally, practitioners who dealt with straightforward residential transactions considered that ongoing costs were slowly decreasing over time. These practitioners were able to complete the SDLT forms more quickly as they became more used to the format and the codes required. The exceptions to this rule were those practitioners who were having a lot of forms rejected for being incorrect.

“You grasp it quite quickly. I still sometimes need to check the codes, I always have a book to hand, guidance there so I can check the code. No I don’t have a problem” (12 - Small solicitors, senior decision-maker)

Respondents dealing with more complex transactions felt that ongoing costs were not decreasing. The reason given for this was that each new complex transaction brought

with it a new set of queries to be resolved with HMRC. PSLs from the largest law firms said that the increased on-going costs could be in the region of tens of thousands of pounds in opportunity costs, as valuable staff struggled to complete the forms. At the time the research was conducted, PSLs were pessimistic about the situation improving over time, as were practitioners dealing with complex transactions in all sizes of firm.

3.4.1 Degree to which firms passed on costs

There was a split in the research findings between those practitioners who felt able to pass on costs and those who did not.

Generally, firms operating in the 'high street' residential conveyancing market considered that it was challenging to pass on the increased costs to clients. They regarded the conveyancing market to be too competitive to enable them to do this and that purchasers selected solicitors or conveyancers on the basis of the lowest fixed all-in fee. There was also a sense that completing the SDLT form was part of the standard conveyancing process and that clients would not pay extra just because this had become more difficult for the practitioner.

Generally, practitioners in the study had not done any formal market research before reaching a decision on whether to increase their charges, but relied instead on their instinctual understanding of what charges clients were likely to accept and how competitive the local market was.

"Not residential clients, I mean they really don't, you can't pass the cost on" (8 - Medium solicitors, senior decision-maker)

"Well inevitably some part of the cost is passed on to the client, because we have had to raise our estimates to cover the fact that we're spending more time. But there will always be a certain number of people in the market who will always go for the cheapest estimate. And that means we lose business" (10 – Small solicitors, senior decision-maker)

Among practitioners doing commercial transactions, costs were generally passed on. Clients were usually billed by time, reflecting the variable nature of the work, and it was therefore simpler to pass on the extra cost of completing the forms.

However, practitioners in the study at the biggest firms who were working on the most complex transactions said that they could not directly increase their charges. These respondents said that their fee was worked out as a percentage of the deal and that it was not practical to alter this percentage to take into account the increased time taken to deal with SDLT.

Overall, even if the respondent said that they had increased their charges, they did not believe that increased charges truly reflected the increased time or inconvenience in dealing with the new system.

3.5 Impact on avoidance

3.5.1 Awareness and attitudes towards impact on avoidance

A number of practitioners were uncomfortable with the implication that some of their clients illegally avoided paying Stamp Duty.

“I mean in my career I’ve obviously come across a few people trying to do that, but obviously you just advise them in the correct way, but I don’t think it’s so much of an issue to be honest” (9 – Large solicitors, senior decision-maker)

However, many practitioners acknowledged that the SDLT system has led to a climate change in which it was more difficult to avoid paying tax on property transactions. They ascribed this to a number of factors:

- The SDLT form required more detailed information
- The taxpayer was more obviously liable as they were signing the form
- HMRC is likely to open random enquiries

- The legislation has been tightened closing loopholes which existed before
“It (Stamp Duty) was outmoded, there were so many gaps in it, so many schemes around to circumvent the tax that it was unworkable” (8 - Medium solicitors, senior decision-maker)

Some practitioners in the sample also reported that they were likely to emphasise the client’s responsibilities to a greater degree than they had done previously. As a result of the changes, respondents said that clients were likely ‘to think twice’ before trying to evade SDLT.

“People are more afraid of being investigated now. In the past, yeah, on some transactions...And that’s stopped now” (14 - Medium conveyancing firm, senior decision-maker)

“I still think that happens but I think people will just negotiate the price just below the threshold” (18 – Medium solicitors, senior decision-maker)

Practitioners who were commercial specialists acknowledged that ‘creative schemes’ designed to avoid Stamp Duty did exist under the old system, which were no longer possible since SDLT had been introduced. In contrast, some ‘high street’ practitioners specialising in straightforward residential transactions had limited awareness that it was possible to avoid Stamp Duty under the previous system. This meant that they were particularly resentful that the system had changed as they could not understand one of the fundamental rationales for the change.

“I’ve not had that. I’ve not had that. It’s, they’re either stamp duty payable or it’s exempt, or not payable. So I’ve not had that” (4 – Small conveyancing, frontline staff)

Practitioners in the study who worked in-house for large property companies were particularly aware that avoidance was much more difficult now. They had mixed feelings about this. Some identified that it simplified their role and the deals they were involved in and so it had a positive impact, others identified that it cost the company more money in tax and so had a negative impact overall.

“Personally it’s pleased me that’s all clamped down on now. Sometimes avoidance schemes cost as much as legal fees” (46 – Large property firm, senior decision-maker)

“We’ve changed our systems here because we had a way of avoiding...we’re negative obviously, partly because there are occasions where it causes us to have to pay more duty but also in terms of just time with these forms” (39 – Large property firm, senior decision-maker)

Chapter 4 – Impact of SDLT on practitioner relationships

Summary

- In this chapter we focus on the impact that SDLT has had on practitioners' relationships with their clients
- During the research it emerged that practitioners not only had the purchasers' interests as a priority during the SDLT process, but where relevant, the interests of the purchaser's mortgage lender too
- The relationship with the mortgage lender was an important one as practitioners had a duty to register ownership of the property before their priority period with the Land Registry ended
- Problems in the SDLT process that caused delays to this created difficulties for practitioners and they were concerned ultimately about failing in their duty and being sued for negligence
- Changes to Stamp Duty had not had an impact on the *nature* of the client/practitioner relationship, as although the client was now legally responsible for the contents of the SDLT form and were required to provide a signature, practitioners effectively acted as agents on their behalf
- However, in some cases the changes had had some impact on the *quality* of the client/practitioner relationship when rejections or delays occurred and HMRC informed the client as well as the practitioner of these, causing the client to contact their practitioner in alarm
- Practitioners did not perceive that there was a consequent benefit for the clients as a result of these changes

4.1 The impact of SDLT on practitioner relationships

4.1.1 Practitioner responsibilities

Practitioners in the sample identified that for transactions in which a mortgage lender was involved, which occurred in most cases (large property firms being the exception), practitioners had responsibilities to both the buyer and the mortgage lender.

The relationship with mortgage lenders was extremely important for practitioners. Under the terms of their contract when acting on behalf of mortgage lenders, practitioners were required to ensure that the lender had 'first charge' on the property that was acting as security for the loan. This status was provisionally assigned to the first individual or company to perform a search, and then confirmed when the transaction was completed and the Land Registry officially confirms ownership on the buyer. The SDLT5 certificate was required for the Land Registry to register the buyer as the new owner. Failure to make an application for registration within the priority period may mean the lender loses priority to another application.

The search had a time limit of 30 days, known as a priority period, and if the Land Registry did not transfer ownership to the buyer within this time the priority period ended and then needed to be renewed.

Problems which caused delays to the SDLT process were seen as having a negative impact on practitioners' capacity to fulfil their obligations to mortgage lenders. They were concerned that delays in the new system meant that it could be difficult to register the property with the Land Registry within the priority search period. Respondents believed this exposed them to the risk that the mortgage lender could take them off its list of approved solicitors and in the most extreme cases exposed them to the risk of being sued for negligence and suffering damage to their professional reputation.

"Meanwhile we're having to renew land registry searches to protect our lenders while all this is going in on. It's just turned into a complete farce" (4 – Small conveyancing, senior decision-maker)

*“If we’re involved in a purchase and these forms are always involved with a purchaser and we’re involved in a mortgage we’re duty bound to the lenders to get title registered and we can’t get title registered without the stamp duty form”
(7 – Medium solicitors, senior decision-maker)*

Respondents considered the risk of being sued for negligence was small, but in large part this was because they made sure that the situation did not reach a point where this might happen. Some respondents said they would personally go to a client’s address to collect the SDLT form if it was in danger of being returned late, while others said they would pay penalties issued by HMRC even where the client was at fault and attempt to recover the money later so that they could register the property as soon as possible.

4.2 Impact of SDLT on practitioner/purchaser relationship

4.2.1 Overview

The research indicates that there were two dimensions to the relationship practitioners had with their clients. The first dimension was the **nature** of the relationship. The nature of the relationship was defined by the responsibilities practitioners had as they acted on behalf of clients and what clients considered the practitioner had been engaged to do.

The second dimension was the **quality** of the relationship. This referred to the way the relationship worked in terms of aspects such as client satisfaction and communication between practitioners and clients. These two dimensions will be covered separately in sections 4.2.2 and 4.2.3.

4.2.2 Nature of the practitioner/purchaser relationship

From the perspective of practitioners in the sample, the statutory responsibility for buyers to complete and sign the SDLT form had not changed the nature of their relationship with clients. Respondents viewed the SDLT return in the same light as other documents prepared by practitioners and signed by clients.

They considered the SDLT return to be part of the long-standing conveyancing process and so presumed it was their duty as a conveyancer to complete it on behalf of their clients. In addition, practitioners wanted to maintain control of the process because the SDLT5 certificate was crucial to them being able to fulfil their obligations to the mortgage lender by registering the property within the Land Registry search priority period.

“No, I don’t think it’s changed the relationship” (5 - Large solicitors, senior decision-maker)

“I don’t really think it makes a difference, because I mean even before the kind of abundance of qualification of ID was there, I always wanted to see them at least once so that I could, or one of my girls could actually see that it was them that held the pen that signed their name on the mortgage deed” (16 – Medium conveyancer, senior decision-maker)

Most practitioners did not think that clients were interested in completing the forms themselves, and furthermore they considered the form to be too complex for clients to interpret and complete correctly without practitioner guidance. Clients would be unable to complete the forms without access to information that was held by the practitioner, such as the seller’s details and their representative’s details.

Whilst some practitioners said they did explain the form to their clients, the explanation could be minimal. In effect, practitioners in the sample acted as agents on behalf of their clients when it came to completing the SDLT form, but without having agent status.

4.2.3 Quality of the practitioner/purchaser relationship

However, a number of practitioners identified that the new SDLT process had had a limited effect on the quality of their relationship with clients.

Respondents identified that there could be negative consequences when forms were rejected by HMRC because the request was sent to clients as well as to the practitioner. They believed that this could cause clients concern, because of a general fear of HMRC, and make them query whether the practitioner was doing their job properly. However, most respondents said that they were able to explain that the duplication was due to HMRC systems and that additional requests for information were mostly due to processing errors on behalf of HMRC.

Respondents said that the greatest strain on their relationship with their clients occurred when there were severe delays to HMRC accepting an SDLT form, with repeated requests for information regarding the same return, as the client received repeated notifications of this or when penalties were incurred through delays. In circumstances where the client was at fault through being slow to return the form after signing it then theoretically the penalty was passed on to them by the practitioner, so firms had taken steps to prevent clients from slowing the process down. However, in a number of cases firms had paid the penalty themselves to avoid a difficult situation with their clients.

“Yeah, because clients ring up with their displeasure. So we have to placate them and say, don’t worry we’ll sort it out. And sort it out means we pay out £100” (14 – Medium conveyancer, senior decision-maker)

Some clients questioned why they needed to supply their National Insurance number, and some clients were uncomfortable about doing so. However, clients accepted the respondents’ explanation that the new form and the details it required were due to HMRC requirements and therefore beyond the control of the practitioner. Practitioners in the sample said that clients often saw themselves in alliance with practitioners and saw HMRC as the opposing side.

*“A few, some, a few of them don’t like to give their national insurance number but I have to go through why and why the new procedure, and after that they are ok”
(19 – Small solicitors, senior decision-maker)*

Practitioners did not perceive that there was a consequent benefit for the clients as a result of the changes to the system. SDLT had tightened up the tax regime and involved more work for practitioners, with no discernible benefit to clients.

Chapter 5 – Problems associated with SDLT system

Summary

- In this chapter we will look at the problems that practitioners encountered with SDLT and the reasons for HMRC receiving a large volume of incorrect SDLT returns
- Practitioners encountered problems at various stages of the process; when they first completed the forms, when they sought help from HMRC on this, when they received rejected returns back from HMRC, and when they sought help from HMRC to resolve the errors
- Many practitioners were still getting used to what they regarded as the inflexible nature of the SDLT forms in comparison to the previous Stamp Duty system. Whereas the previous system allowed them to complete the forms 'free hand', the new forms did not provide this degree of flexibility
- Practitioners were frustrated when they felt unable to complete the form correctly including calculating the correct amount of consideration due. They did not consider calculating the duty to be so onerous under the previous system as the local Stamp Office was often helpful in advising on the amount due, the old system was not a 'self-assessment' regime with the same level of responsibility on the practitioner on behalf of their clients to calculate correctly, and it was more straightforward in terms of calculating tax on leasehold properties
- They identified a range of 'problem areas' which made it difficult for them to complete the form correctly – these problems concerned which forms to use and which parts of the forms to use, and the ability to interpret the legislation correctly
- Practitioners also encountered problems in the processing of the forms, such as forms being rejected and delays in receiving the SDLT5 certificate
- Many practitioners had experience of forms being rejected by HMRC for, what respondents perceived to be, no genuine reason, whilst they ascribed this to HMRC scanning system it left them perplexed about how to avoid future rejections

- Errors generated by HMRC also had the effect of masking errors generated by practitioners
- There were a few specific problems encountered by respondents in Scotland. Some practitioners in Scotland believed that HMRC did not recognise that the statutory period for registering the ownership of a property was 21 days in Scotland, and the greater risks involved if ownership was not registered. In some cases the SDLT process took longer than this to complete, and the SDLT5 certificates could take a long time to arrive. As a consequence they said that they were at greater risk of being sued for professional negligence.

5.1 SDLT process problems

We have identified four stages where practitioners experienced problems with the SDLT process. These were:

- Stage 1: Problems understanding what they should do in order to complete a form correctly for each transaction
- Stage 2: Problems accessing HMRC help to enable them to complete the form in the first instance
- Stage 3: Problems at the processing stage where forms were rejected by HMRC
- Stage 4: Problems accessing HMRC help to enable them to rectify the mistake on the form and submit it correctly

In the following section we will explore Stages 1 and 3 concerning the comprehension and processing problems experienced by practitioners. Chapter 6 will then explore problems around the guidance provided by HMRC.

5.2 Practitioner comprehension problems

Comprehension problems existed on two levels. On one level practitioners reported problems understanding how the SDLT form should be completed for specific cases or aspects of cases. On another level, respondents said they were not clear how the legislation applied in certain cases.

In terms of completing the form correctly, there were a number of areas of difficulty. Practitioners criticised what they perceived as the inflexible nature of the forms, particularly in instances when the transaction was more complex and did not fit neatly into the standard process for straightforward residential conveyancing. It was a challenge for many to have to adapt from their practice of completing the previous LA51 form in freehand before submitting it to an accessible and friendly stamp office. Clearly a number of practitioners were still learning how to complete the forms so that they would not be rejected by HMRC.

Many practitioners were frustrated by their difficulties in understanding the complexities of calculating considerations and completing the appropriate forms correctly. For senior decision-makers with years of experience in conveyancing, the sense of uncertainty which some felt when dealing with SDLT was an unwelcome and novel experience.

They did not consider calculating the duty to be so onerous under the previous system as the local Stamp Office was often helpful in advising on the amount due, the old system was not a 'self-assessment' regime with the same level of responsibility on the practitioner on behalf of their clients to calculate correctly, and it was more straightforward in terms of calculating tax on leasehold properties.

Practitioners identified a range of areas where they continued to have problems completing the forms. Examples of these included both complex queries and more basic questions about the practicality of completing the form(s):

- How to calculate the SDLT payable on leases where rent may increase in the future
- How to record transfers involving several parties, several considerations and several number of leases and which forms to use for these
- How to record the sale of multiple properties that were part of a single transaction
- How to record the sale of a property that had multiple leases associated with it
- How to include the name of a company if it was longer than the boxes provided
- In Northern Ireland, how to record 10,000 year leases when boxes only accommodated fewer digits
- What details were required for seller's current address (given that when the form is completed the seller will no longer own the property)

"I think some parts are inadequate as to space....quite often there will be insufficient space" (10 – Medium conveyancer, senior decision-maker)

Areas of practitioner uncertainty about the legislation concerned:

- Leases
- Transfers involving several parties
- The position concerning overage in commercial transactions
- Portfolios
- The position on transactions where there is no consideration paid, but there is a transfer of ownership

5.3 Process problems

Some practitioners reported that once they overcame any difficulties they had in completing the SDLT return, they could then encounter a range of further problems at the form processing stage. Overwhelmingly, respondents encountering difficulties at the form processing stage, believed HMRC's internal processes were responsible for these problems. For many practitioners in the sample these problems were the area of greatest concern for them as they perceived them as delaying the title registration process which it was so important to conclude. The main problems were HMRC delays and HMRC rejection of forms.

In terms of HMRC delays practitioners criticised:

- Requests for additional information being returned by HMRC close to the end of the 30 day time limit before HMRC would impose penalties
- Delays in receiving the SDLT5 certificate from HMRC when the form had been accepted
- SDLT forms which had been lost by HMRC, or HMRC was unable to match with the accompanying cheque for the SDLT

In terms of forms being rejected, practitioners were unhappy when:

- They received a letter from HMRC requesting more information or highlighting mistakes in the return in cases when their office copy of the return indicated that they had provided the information in the correct manner on the original form (this was ascribed to failures in HMRC's automated scanning system)
- They received repeated requests for the same information, which respondents believed was included correctly on the original form and on previous re-submitted forms

5.4 Reasons for practitioners completing returns incorrectly

Where practitioners understood why a form was rejected e.g. because they had missed off the effective date or written outside the box, they believed that they were able to learn from their mistakes and not repeat them. They considered that they may have made fundamental mistakes initially but that with experience the extent to which they made these was decreasing as they became more familiar with the forms and the reasons for rejections.

"At the beginning I think they didn't even realise that you had to put details of new leases on, despite the fact it says it, we had all sorts of very basic errors right at the very beginning. Even putting the wrong date for completion, the effective date of transaction, possibly not adding all the clients' names and addresses on, not using the supplementary forms. All sorts of things went wrong at the beginning" (35 – Medium solicitors, senior decision-maker)

However, in some cases they already understood how the form should be completed and put the mistake down to human error. In these cases respondents indicated that this was an inevitable part of the process and that there was little they could do to prevent it happening again, though they believed that these kinds of error were rare.

Quality control within firms varied dramatically. In a large proportion of firms a fee earner (not frontline staff member) would check the form for accuracy before it was sent

to HMRC, however in a similarly large proportion of firms no checks were made before it was sent to HMRC.

“Oh they get sent back regularly because it’s silly little things but, I mean I’ve got two here for example, I haven’t looked at the forms yet but normally they just get sent back with a printed letter” (18 – Medium solicitors, senior decision-maker)

5.5 Perceived mistakes made by HMRC scanning systems

The cases that practitioners most often recalled and were aware of however, were instances where they did not understand the reasons the forms were rejected, and it was here that they would blame HMRC scanning errors for the rejection. Respondents with large numbers of rejected forms believed that the overwhelming majority were due scanning errors.

“More recently I would say 90% of them come back from the Revenue asking for further information are errors on their part and it would appear that there are scanning problems at the Revenue’s end because every one I’ve investigated, and I do investigate these, has been a Revenue error. And this is very recent, within the last month or so.” (20 – Large solicitors, senior decision-maker)

“Obviously we’re a lot more familiar with the forms now, it does go a lot more smoothly, but occasionally we do encounter a few problems where, for example there were one or two, I mean I don’t like to quote too many things because undoubtedly we’ve made mistakes as well. But once or twice they’ve asked us to do things, which has already been dealt with on the form, which was a bit surprising. But fair enough they are going to be hiccups” (48 – Small solicitors, senior decision-maker)

It is not possible without further research to establish whether the perceptions of practitioners in the sample matched reality or how representative of the population as a whole they were. However it should be noted that respondents were able to produce examples of forms that were completed in clear handwriting and in black ink that the respondent believed had been rejected erroneously.

Respondents were not all necessarily aware that the errors could be the result of scanner failure (which HMRC was tackling), and they were largely uninterested in HMRC reasons. What concerned those affected by this repeatedly was that they had completed the forms to the best of their abilities and believed them to be correct, and then were receiving erroneous notification that the forms were not correct.

5.6 Impact of HMRC system error on practitioner accountability

As described in 5.5, many practitioners in the sample described examples of returns that were rejected 'erroneously'. It is not clear how many of these forms were returned due to scanning errors, as practitioners believed, and how many were rejected due to genuine errors that were not recognised. It is possible that a small number of forms were rejected due to scanning errors and that this meant that respondents were less motivated to recognise or act to reduce their own mistakes. Because they believed that they could get everything correct and still receive a rejected form from HMRC it appeared that it was not worth the effort of making sure they completed the form correctly.

There were a number of other difficulties with the system which added to the resentment felt by respondents and might have reduced their motivation to make sure the forms were completed correctly. These factors included what practitioners in the sample perceived as the inflexibility of the system. This inflexibility created a perception that HMRC penalised them for delays caused by HMRC generated errors, and also meant that the whole form was rejected for what respondents believed were very minor errors. Respondents gave examples such as not ticking the 'non-trust' box for a second buyer when the box had been ticked for the first buyer. Additionally, problems were caused by the fact that the SDLT60 was not designed for tenancies and was inappropriate for trusts and non-freehold cases.

They also encountered problems when forms were rejected and then it emerged that the client was unavailable to sign an amended return in good time.

Some practitioners who had experienced forms being rejected for mistakes they had made in completing the form manually, criticised HMRC for the quality of the information

provided on HMRC issued handwritten SDLT5 certificates. A few practitioners criticised these for being difficult to read and for larger firms dealing with high volumes of transactions, difficult to match with the client as they often lacked enough reference information.

“And why they can’t put a reference on the certificate, because we’ve got 14 people in the department and it comes back with no reference so it could belong to anybody and the certificate is sent all over the place” (8 - Medium solicitors, senior decision-maker)

5.7 Specific issues for practitioners in Scotland

A few issues emerged which were specific to respondents in Scotland. Some practitioners in the sample working at Scottish firms perceived that HMRC did not understand the Scottish legal system or make allowances for it. Specifically, these respondents believed that HMRC did not recognise that the statutory period for registering the ownership of a property was 21 days in Scotland, and the greater risks involved if ownership was not registered.

In some cases the SDLT process took longer than this to complete, and the SDLT5 certificates could take a long time to arrive. As a consequence they said that they were at greater risk of being sued for professional negligence.

These practitioners also said that some of the guidance related to English law, or used English terminology, for example using the term ‘vendor’ rather than the term ‘seller’.

“It’s very English. We are qualified to practice in England as well, but I never have. So I can understand some of the differences in terminology, but there are really no equivalents to some things in Scotland” (2 – Small solicitors, senior decision-maker)

Chapter 6 – Quality and availability of HMRC information and guidance

Summary

- In this chapter we will focus on practitioner attitudes towards the guidance and support provided by HMRC on SDLT
- Practitioners needed HMRC guidance to help them complete the forms correctly and to provide answers to questions about the application of the legislation
- The guidance on basic residential freehold transactions was praised by some practitioners and considered to be adequate and helpful
- However, practitioners had more need of HMRC guidance regarding more complex and commercial transactions and they criticised HMRC for not providing definitive and complete manuals on this
- Practitioners also perceived that HMRC was unwilling or unable to engage with them to resolve the problems with rejected forms. Respondents complained that they were unable to contact HMRC by phone and when they wrote to the individual or office named on the letters they received from HMRC they would get no response. They therefore considered themselves to be trapped in a position where they had no control over the process and no means of solving their problems
- HMRC changes to the guidance that had been provided was also considered problematic as practitioners were unsure about which information they could trust from HMRC
- Practitioners criticised the support provided by the helpline which they considered to be difficult to access, which delayed them in getting answers to help them complete the forms, and they were unhappy that there was limited opportunity to resolve problems by engaging with HMRC in an easy way
- Some were concerned that they were storing up problems for the future by completing forms and estimating stamp duty consideration incorrectly or based on false assumptions

6.1 The need for HMRC guidance

Practitioners identified two key areas where HMRC guidance was needed:

- To help them complete the form correctly
- To answer substantive legal questions so they could understand how the legislation applied to a particular case

For both these areas, the need for advice and support increased if the transaction was more complex, for example, if it involved leases, if it involved more than one vendor and purchaser, if trusts were involved in transfers of ownership, or if the property was a portfolio.

6.2 Useful aspects of existing guidance

The quality of the help and guidance available for basic transactions was praised by some respondents. The guidance notes were described as clear and comprehensive, though in some cases the initial reaction to the length of them was one of concern. Advisors at the helpline were described by some practitioners as polite, friendly and helpful and their advice clear regarding more simple queries.

In addition, the online lease calculator was considered to be essential by many practitioners in helping them calculate the correct amount of consideration due.

6.3 Difficulties accessing HMRC guidance and support: before filing

Practitioners in the study believed HMRC guidance to be inadequate in some cases. Although they praised the SDLT basic guidance notes for being helpful and written in a clear manner, they felt that guidance and support for more complex queries was difficult to access, and they criticised the fact that definitive guidance was not available for some aspects of SDLT such as leases.

“The guidance notes that we have had from the Revenue were 75% pretty good, but there was 25% where there were obvious errors, and the guidance notes were misleading in some respects” (20 – Large solicitors, senior decision-maker)

“There are changes that have been made that for some reason haven’t filtered through yet, that the Inland Revenue have actually changed what they want you to put in that box and we’re still, the guidance notes have not filtered through to all of the relevant people or they’ve not been received” (23 – Medium solicitor, senior decision-maker)

Some respondents criticised the HMRC helpline for being inaccessible and the advisors being limited in the advice they could provide. Senior practitioners particularly resented the time it took to get through to an advisor, and then being put on hold before speaking to a more knowledgeable member of staff. They emphasised that their time was quite literally money to the firm, and that the difficulties in accessing the helpline therefore had a cost impact on the practice.

Some practitioners in the study reported that they had waited up to one hour at a time to get through to an advisor. Respondents said they were extremely angry when a recorded message said the helpline was busy and they were not given the option of waiting. Respondents said that it was important to be able to wait in cases where the advice was needed urgently.

“It just takes too long. And people I’ve spoken to have often been ever so reluctant to help and I’ve literally had to go ‘please’, and I’ve explained to them that I’ve been on the helpline for ages and ages and I can’t get through and all the time we’re at risk of being penalised for not responding to queries within the time frame, but we are being prevented by the very organisation which is stalling things in the first place so it feels quite one sided” (3 – Medium solicitors, senior decision-maker)

“We actually bought a book as well on it, because I have to say the enquiry line isn’t always very good, but I expect you’ve heard that all round. I mean very often they don’t know what you’re talking about or else you hold on for hours and they still don’t know what you’re talking about. So we did buy a book, which was

quite helpful, which solved some of our problems” (48 – Medium solicitors, senior decision-maker)

Practitioners in the study who were able to contact the Complex Transactions Unit (CTU) praised the professional advice they received. However, this service did not appear to be accessible to all, and there were some indications that practitioners in the sample who worked in smaller firms were less likely to have been able to contact it. As a result, many practitioners perceived that HMRC had largely left them on their own to try and make sense of the legislation and complete the forms correctly.

6.4 Difficulties accessing HMRC guidance and support: after filing

Many practitioners in the study also perceived that the guidance and support available after they filed an SDLT form was inadequate when things went wrong or there were delays. Respondents said that they were unable to get information about what was happening to the returned forms and that the first level of advisors on the support helpline were unable to open HMRC’s case file on their computers in order to check what stage of processing the form was at.

Respondents also perceived that HMRC was unwilling or unable to engage with them to resolve the problems with rejected forms, make progress on locating lost forms, or to get information on SDLT5 certificates that had not been issued. Respondents complained that they were unable to contact HMRC by phone, because there was only one number which was usually engaged. They said that when they wrote to the individual or office named on the letters they received from HMRC they would get no response. They therefore considered themselves to be trapped in a position where they had no control over the process and no means of solving their problems.

“I know that I’ll get some silly response from the Inland Revenue to that because what I find is that there’s no human interaction in any of it and it feels like you’re banging against a machine and a regime which is very draconian. But at the same time it’s not very comforting because I want to be doing a good job for my

clients and we want to be seen to be doing a good job and it's quite difficult when you haven't got an organisation which is really playing ball at the centre" (3 - Medium solicitors, senior decision-maker)

"What do you mean point of contact? There is no point of contact with the Inland Revenue" (21 – Small solicitors, senior decision-maker)

Respondents working on the most complex transactions said that even the CTU was unable to help with their enquiries in some cases. They put this down to the fact that it had not yet been established how the law applied in certain complex cases, but that as they were doing their best in good faith to comply with the law the CTU should be able and willing to give guidance on what HMRC's position was. There were some cases where advisors responded to questions from practitioners by reading out the primarily legislation.

6.5 Lack of trust in HMRC guidance

Practitioners who dealt with more complex transactions, particularly commercial ones, were frustrated by what they identified as conflicting guidance provided by HMRC in key areas. They were concerned that the lease manual was still in draft form and subject to change, and pointed out that HMRC indicated that it should already have been available on the HMRC website by the time the research was conducted.

They perceived that some of the guidance had changed over the months that SDLT has been in place and that it had become difficult to keep up with these changes.

Some respondents also reported that different advisors on the helpline could give conflicting advice, and some respondents considered the Disadvantage Area Relief calculator was unreliable because it used postcodes rather than ward to indicate whether a property qualified. Respondents said that as a result they had experienced cases where clients had paid SDLT where it was not due and, even more damagingly, where clients had not paid SDLT and subsequently found out that it was due.

Practitioners said they attempted to complete the returns correctly, but were concerned about whether they had included the correct information in the correct format and whether they had calculated the considerations correctly.

6.6 Minimal dialogue with HMRC

Due to the problems with obtaining guidance and the fact that some practitioners did not believe the guidance they got was always trustworthy, respondents did not consider that they had a meaningful dialogue with HMRC. In some cases, respondents said they submitted additional documents with SDLT returns in order to support their actions and so that the transaction was adequately recorded. They were further frustrated by the fact that they did not get feedback on these additional documents from HMRC.

The frustration some practitioners in the study expressed was set against a backdrop of previously being able to talk to their local Stamp Office to discuss complications. Respondents reported that where there was doubt about the amount of tax that was due, they could send their transaction documents to the local Stamp Office and be given an informal but reliable ruling on how much tax their client should pay.

“I was really, really upset when our local office was taken off us, because I felt it was necessary support for the legal profession” (10 – Small solicitors, senior decision-maker)

6.6.1 Practitioner fear of enquiries

A significant concern for practitioners in the study working at the largest firms was that HMRC would decide to investigate the SDLT returns they had made at a later date. These practitioners feared that they would have to spend a large amount of time dealing with an investigation regarding a minor matter when they had attempted to act entirely within the guidance.

Underlying practitioners' concern was apprehension that they may have calculated the consideration incorrectly, particularly in the case of those dealing with complex transactions. They pointed out that this would not have been possible under the previous system, because they could have received guidance on the amount of stamp duty due before submitting the form from the Stamp Office. They could also have included the transaction documents when the form was submitted, so the Stamp Office could make a definitive decision at the time.

The difficulties experienced in establishing any kind of dialogue with HMRC to check that they were acting correctly worried them.

Chapter 7 – Practitioner attitudes towards e-business and online services

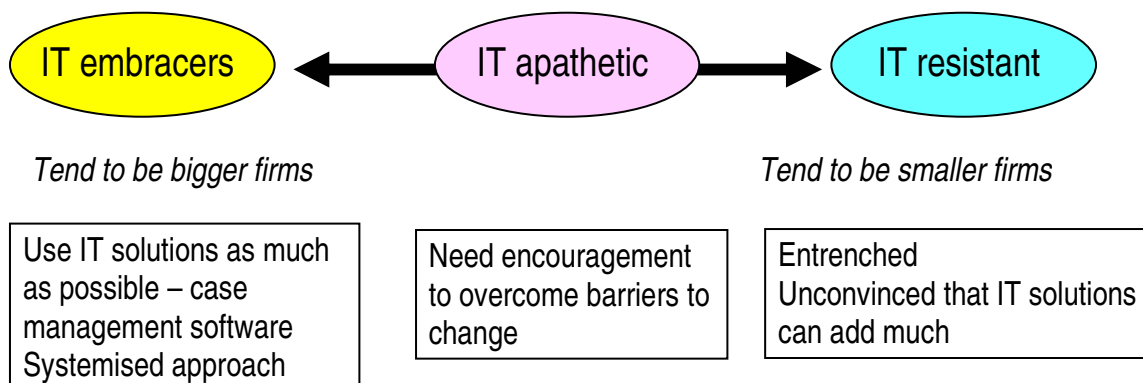
Summary

- In this chapter we focus on practitioner attitudes towards and experiences of e-business and online services
- There was a spectrum of attitudes towards e-business and online services across the research
- Within one firm a range of attitudes could exist: some staff members might embrace IT, whereas others in the same firm could be IT resistant
- Practitioners across the spectrum were aware that e-conveyancing would become increasingly part of conveyancing in the future and they identified the potential benefits to be increased speed, easier access to information and simplification of some processes
- A number of practitioners were completing the forms on computers, but this practice varied greatly between and within firms depending on the extent to which an individual was comfortable with this
- The perceived benefit to computer completion was the prompts that ensured that practitioners completed the form correctly
- Practitioners identified a wide range of barriers to greater take-up of e-business and online services that would need to be addressed to varying degrees, particularly to encourage the IT apathetic and resistant to consider them
- A major barrier to completing the SDLT form online was practitioner confusion over how to include the client's signature on an online form
- There was low awareness that HMRC was due to introduce online filing for SDLT

7.1 Spectrum of attitudes towards e-business and online services

The research indicated that there was a spectrum of attitudes amongst practitioners towards e-business and online services. Figure 7.1.1 depicts this spectrum.

Figure 7.1.1: Spectrum of attitudes towards IT



Although the key points along the spectrum are shown in the figure using three boxes, respondents did not fit neatly into three easily distinguishable groups, but rather varied along a continuous spectrum. It became apparent during the interviews that one firm could include people with attitudes across this spectrum, so that one partner or secretary might be an IT embracer and enthusiast, whilst their colleague was the opposite.

The key benefits to e-business and online services were identified as:

- Increased speed
- Easier access to information
- Simplification and streamlining of some processes

Whatever a firm's current status regarding the IT systems they had in place, practitioners across the sample anticipated that e-business and online services were going to be increasingly important in conveyancing in the future. Whilst the IT embracers were

positive about this, IT resistant were negative and sceptical at the extent to which this would bring any advantages to them because they were inherently resistant to using IT solutions and foresaw difficulties in introducing and applying IT processes to SDLT form completion. They envisaged that introducing IT solutions would take time to look into and to get used to, would introduce the new possibility of system glitches and failures, and would overall bring them little discernible benefit. They remained unconvinced.

7.2 Use of computers to complete SDLT form

A number of IT embracers were using LASER software to complete the SDLT forms. The reasons they cited for this included the greater speed that data could be inputted and the fact that there were prompts to make sure that the form was completed correctly. These respondents were generally more satisfied with the system because they were experiencing fewer rejections, though it was reported that even when forms had been completed on computer there could still difficulties, for example due to one software product pre-populating fields with zeroes that should have been left empty, which were then picked up by the HMRC scanners.

A few practitioners were using HMRC software to complete the returns. A few practitioners in the sample were using the HMRC online forms specifically for the interactive help this provided. However in many firms internet access was limited to a few computers and was often seen as unreliable and prone to crashing.

"I find that it helps if you do them on the internet from the Inland Revenue, because at different stages, before you go onto the next question, if you filled in a wrong answer then it prompts you to have a look at it again. If two things are contradictory, which immediately sends alarm bells ringing, because if you're doing them by hand on paper you wouldn't necessarily have anybody reminding you. And a lot of people are doing them by hand...I know that my colleague prefers to do them by hand, he finds the use of the form on the internet very tedious. It is very laborious to fill in and I only prefer it because as I said, every now and again it prompts you to have a look at something again" (43 – Small solicitors, senior decision-maker)

“The online version is better because it’s like doing your tax return at home, I do that online because it steers you through it, if you miss something it tells you you’ve missed something and you go back to it and that sort of information is quite useful when you’re doing these things because what we’ve also found is that because they’re doing them repeatedly and laboriously, if they miss a box on the form they fill in manually obviously the wretched thing then comes back a few days’ later and they’ve got to fill in the missing bit, which is fair enough because they’ve made a mistake but it happens just in day-to-day life really” (39 – Large property firm, senior decision-maker)

The CD-ROM was not widely known or used when the research was carried out. Some respondents had tried it and were enthusiastic about the help it provided, whilst others considered it to have limited functionality as the disk could only be used on one machine at a time within the firm which was more problematic for the larger firms.

7.3 General barriers to using e-solutions

A number of general barriers to greater take-up of e-business and online services existed amongst respondents. These included:

- Lack of basic online access across the firm
- The inescapable requirement to maintain paper copies on file, whether the original documents were completed on the computer or not
- Traditional preference for the tangible security of completing essential documents on paper
- Concerns about security
- Concerns about reliability – fears of system failure
- Concerns about staff capability to use the services
- Ignorance of the benefits of online services and what was involved in setting up systems to enable them to be used

- Lack of resources in terms of senior decision-maker time to investigate the various IT options and the cost of acquiring/upgrading computer hardware
- Inertia because other business development priorities were more pressing which meant that IT upgrades were a low priority
- Ambivalence towards new technology (particularly among older practitioners in the sample) which in some cases amounted to fear

To overcome these barriers, practitioners identified that more support and training would be needed and they would need reassurances of the benefits of e-conveyancing and clarification of how it would work.

7.4 Barriers to completing SDLT forms on computer

In addition to the general barriers identified above, the most significant barrier to completing the SDLT forms on computer was the belief that it was not possible to print off the form before it was complete and the fact that the forms required a client's signature. In reality, it was possible to print off an agent copy before the form was complete, although this version could not be sent to HMRC because its unique barcode would not contain all the relevant information for the scanner. When online filing is introduced it will be possible to file without a signature on the electronic form as long as the agent has got a hard copy with a signature in their files. However, practitioners were unaware of these facts. As a result, even IT embracers perceived this to be a problem.

"If they want them signed, then we have to be able to print them out before we put all the information in" (27 – Medium solicitors, senior decision-maker)

"I don't know how they get round the signature thing, is the only thing I can think of off the top of my head" (26 – Small solicitor, senior decision-maker)

There was very low understanding that if a draft copy of the SDLT form was signed by the client, and kept on file, the practitioner was able to submit a form to HMRC that was not signed by the client. However, even the few practitioners in the sample who were aware that it was potentially possible to do this, considered that it complicated the

process and were confused about the status of the unsigned returns received by HMRC. Some felt that the requirement to get one form signed and then to complete another form meant that it was not worth doing.

*“So if the Revenue are prepared to look to doing that now, it’s good. But it comes back again to the question, why does the individual client have to sign the form?”
(14 – Medium solicitors, senior decision-maker)*

“Submitting online, not having to get the clients to sign it. I don’t even understand why the clients have to sign it particularly” (28 – Large solicitors, senior decision-maker)

Respondents located at all points all along the spectrum, from IT embracers to IT resistant, were positive about the possibility of completing the SDLT form online in the future if the client’s signature was not required. They hoped that this could solve many of the problems and delays they were experiencing in using the SDLT system by saving time and reducing the likelihood of error.

“I think the advantages are speed, it’s got to be speed, it’s just instantaneous isn’t it most of the time” (16 – Large solicitors, senior decision-maker)

“If I had it online I’d do it online” (25 - Large property firm, senior decision-maker)

Nevertheless, some respondents continued to express reservations about online filing with a number of them believing that the inherent difficulties in dealing with the current SDLT process needed to be resolved before they would have full confidence in filing forms online.

They were also unsure of what was involved and felt that it would take time to look into and understand, in order to be convinced of the clear benefits of changing their internal practices to accommodate this and investing in the necessary online access and staff training across the conveyancing team.

They wanted reassurances that it would actually take less time, because some of those who had attempted completion on computer had discovered that the prompts and strict parameters of the format slowed the process down in comparison to completion by hand.

Many respondents were not aware that at the time of the research online filing was soon going to be possible, nor that the present arrangements were intended as a stepping stone towards online filing.

Chapter 8 – Practitioner suggestions for improvements to the system

Summary

- In this chapter we focus on the improvements that practitioners suggested could be made to the system
- The spontaneous reaction of many practitioners in the sample to the question of how to improve the current SDLT system was to suggest changing it back to the old Stamp Duty system. Nevertheless, they identified a number of key actions in order to address the problems associated with the current system
- Some practitioners believed that it was important to change the forms to accommodate more complex transactions and identified changes that may be beyond the scope of HMRC to implement. These included reducing the time to complete the forms by reducing the amount of information required on the form and increasing the threshold for self-certification where no consideration was paid and no tax was due
- Many practitioners wanted to have more guidance and support, and more consistent guidance from HMRC in terms of providing answers to questions regarding form completion and the interpretation of legislation
- Practitioners also wanted HMRC to show a more human face that they could interact with and obtain help from
- Practitioners believed that HMRC should impose greater quality control so that forms were only rejected for legitimate reasons, and they asked that HMRC could be less 'pedantic' over what practitioners regarded as small mistakes
- In addition, they wanted HMRC to reduce the time it took to return the SDLT5 and therefore speed up the process
- Practitioners also put forward a range of other suggestions for improvements that would make a difference to them including introducing agent status so that the client did not have to personally sign the form and extending the 30 days penalty time limit and being less stringent in the application of penalties

8.1 Overview

The spontaneous reaction of many practitioners in the research to the question of how to improve the current SDLT system was to suggest changing it back to the old Stamp Duty system. This was particularly true for those dealing with straightforward, 'high street' conveyancing. The reason for this reaction was that:

- They were familiar with the old system
- From their perspective the old system worked well

Nevertheless, they identified a number of key actions in order to address the problems associated with the current system, which were:

- Changes to the forms
- More guidance and support
- Improving HMRC accountability

8.2 Changes to the forms

Practitioners believed that it was particularly important to change the forms to accommodate more complex transactions. They had a number of specific suggestions, which included:

- Creating more codes for common complex transactions, for example freehold purchases where the amount paid is nominal
- Providing more space for practitioners to provide explanations – whilst it may not be possible to scan in this information, which would mean it would be of limited benefit to HMRC, it would reassure practitioners that the forms have recorded the details of the transaction fully for posterity
- Providing more space for longer company names, four digit leases and a mechanism for indicating that only part of a property is the subject of the transaction

Respondents also identified changes that may be beyond the scope of HMRC to implement. These included reducing the time to complete the forms by limiting the amount of information required on the form, such as the seller's details and the seller's solicitor's details, the National Insurance number and the Local Authority number.

Another suggestion was to increase the threshold for self-certification. This would mean removing the requirement to complete lengthy forms where no consideration was paid and no tax was due. It would also limit the possibility of clients or practitioners being charged penalties in situations where no tax was due.

"Why complicate matters, just keep the forms as simple as possible" (6 – Small conveyancer, senior decision-maker)

"There's a lot of look up stuff here isn't there, lots of codes, lots of information, I mean is it really necessary we have to put all this in? It just strikes me that from the stamp duty land tax point of view, I mean how much do you actually, do you actually need all this? How much of it is to pay duty and how much of it is basically information that the Government require for their own reasons, which possibly I can understand, but from our point of view it makes it more difficult" (43 – Medium solicitors, senior decision-maker)

8.3 More guidance and support

Many practitioners wanted to have more guidance and support, and more consistent guidance from HMRC in terms of providing answers to questions regarding form completion and the interpretation of legislation. Respondents were keen that HMRC should:

- Provide a complete and updated guidance manual
- Increase the resources on the helpline to improve its availability
- Increase the number of helpline staff trained to answer complex queries
- Enable frontline helpline staff to access and track the progress of individual SDLT returns

Fundamentally, practitioners wanted HMRC to show a more human face that they could interact with and obtain help from.

“Improved communications, to go both ways, not just from the Inland Revenue to the practitioner” (3 – Medium solicitors, senior decision-maker)

“You want an immediate view sometimes, you want to be able to talk to somebody” (8 – Medium solicitors, senior decision-maker)

“Clearer guidelines to start with, they keep changing it” (7 – Medium solicitors, senior decision-maker)

8.4 Improving HMRC accountability

Practitioners believed that HMRC should not reject ‘correct’ forms and that HMRC needed to improve its scanning system. They wanted HMRC to impose greater quality control so that forms were only rejected for legitimate reasons, and they asked that HMRC could be less ‘pedantic’ over what practitioners regarded as small mistakes (there is clearly a need to educate practitioners of the reasons why these mistakes are not ‘small’ from HMRC’s perspective). In addition, they wanted HMRC to reduce the time it took to return the SDLT5 and therefore speed up the process.

“There aren’t systems in place where say for instance they have a return from us and the machinery indicates that there’s a section not filled in or is our fault or whatever produces a letter, it would seem easier, quicker and I’m sure cheaper for somebody to pull those out, look through them and see whether there is a problem before just putting that letter in the post to us saying there’s a problem with your return when in fact there isn’t. And it would only, it wouldn’t take much I wouldn’t have thought for them, all those returns that are rejected at that stage to be looked over by somebody to see whether there is, they are actually faulty or whether it’s the machine which hasn’t read them properly or otherwise” (32 – Medium solicitors, senior decision-maker)

8.5 Additional suggestions for improvements

Whilst the improvements outlined above were the main areas of action suggested, some practitioners also put forward a range of other suggestions for improvements that would make a difference to them. These included:

- Introducing agent status so that the client did not have to personally sign the form – this would speed up the process and mean that the client was not involved in additional correspondence between HMRC and practitioner
- Extending the 30 days penalty time limit to give practitioners longer to address any rejected returns
- Being less stringent in the application of penalties
- Learn from the user friendliness of the Land Registry website
- Greater recognition and understanding of the complexities of commercial transactions that make them sometimes difficult to fit neatly on the forms
- Have the facility to pay for several SDLT returns at once – thereby reducing the number of cheques issued
- In Scotland – recognition from HMRC that the period for registering ownership is tighter (21 days); HMRC being more responsive to take account if this

“Not to have to get it signed by the client, to keep it professional, being filed in by a professional and submitted by the professional, and I think that that would mean that we could make changes to the form where we’d made a mistake or where new information came to light and still get it submitted in 28 days” (23 – Medium solicitors, senior decision-maker)

“I tell you what would make life so much simpler, if we could keep the forms as they are that allows solicitors to sign on behalf of the client. I personally think that would be the biggest key in terms of alleviating practical difficulties for the actual fee earners and solicitors” (3 – Medium solicitors, senior decision-maker)

“I think they should maybe not be so strict on the 30 days if you’ve got a reason, I think it’s a bit strict on penalties. But apart from that, I mean to be honest I don’t have that many problems with it” (9 – Large solicitors, frontline staff member)

Chapter 9 – Conclusions

Overwhelmingly, practitioners dealing with conveyancing were looking for certainty. On the one hand they wanted to be certain that they had interpreted the legislation correctly, calculated the tax correctly and that they had completed the SDLT form correctly. On the other hand they wanted to be certain that the SDLT form would be processed quickly and accurately and that the SDLT5 certificate would be issued promptly and not contain errors. Underlying their concern was the fact that the SDLT process did not only affect their clients but in many situations had a direct impact on them as practitioners as it was vital to fulfilling their obligations to mortgage lenders to register with the Land Registry.

Many practitioners interviewed for this study did not feel in control of the process. This meant they often lacked certainty on all the points noted above which gave rise to feelings of anxiety. These practitioners wanted to take back control of the process but were unable to see how they could do this without more proactive help from HMRC.

Many practitioners in the sample identified that their negative opinions of HMRC were based on a number of factors:

- The lack of information and consultation about the changes to the system
- The perception that the old system was working well and that it did not need to be changed
- The complexity of the new system and forms
- The perception that HMRC was unaware or did not care about the effect of the changes on practitioners
- The perceived inflexibility of HMRC in accepting or rejecting forms for what practitioners perceived to be minor mistakes on their behalf
- The perceived HMRC lack of responsiveness to queries or to dealing with problems

- The perception that the effort they as practitioners were making to complete the return and make sure the form was correct was not being matched by the efforts of HMRC to process them correctly and quickly

In response to their concerns, practitioners believed that HMRC should put in place a more fully developed customer service ethos. This meant taking on board the needs of its 'customers', and anticipating the concerns and problems they might have with the system. It also meant being committed to communicating with practitioners on an individual basis when problems did arise, and this was considered to be a particular responsibility when the problems were caused by HMRC.

Appendix 1: Detailed research objectives

More detailed research objectives included:

- 1. To examine whether any differences existed between type of solicitor/licensed conveyancer**
 - Identifying patterns in the use of information and advice, the use of e-business, the returns process and new practices following the introduction of SDLT
- 2. To explore solicitors'/licensed conveyancers' feelings towards SDLT since the process had been in place for a while**
 - How easy was it to operate SDLT?
 - Had SDLT simplified and improved the stamp duty process?
- 3. To assess problems associated with SDLT and the land transaction return**
 - What were the main problems – e.g. issues relating to lease duty, assessing duty, Disadvantage Area Relief (DAR), conducting postcode searches, SDLT forms?
 - Why were solicitors/conveyancers encountering problems?
 - What problems were solicitors/licensed conveyancers encountering with respect to the land transaction return?
 - Were forms being completed incorrectly – if so why?
 - Was more guidance necessary?
- 4. To investigate administrative costs**
 - To explore whether there had been any change to administrative costs and practices following the introduction of SDLT, both in terms of set-up and on-going costs
 - Had costs increased or decreased – if so, why and in what respect?
 - Were purchasers being charged more as a result of any increased costs?
- 5. To identify if any improvements could be made to the system**

- Were there any areas of SDLT where improvements could be made?
- How could the system be improved?
- Was more guidance necessary?

6. To examine the issue of SDLT being a fairer system

- Had the fact that under SDLT information about late returns and investigations was sent directly to the purchaser as well as the solicitor/conveyancer led to a greater need to ensure that they complied?
- Investigating avoidance in respect to claims for disadvantage area relief, submitting late returns, or not completing returns. Were legislative changes necessary in order to address avoidance issues?
- Exploring split transactions, which now had to be declared as related transactions under SDLT (it could be the case that a related transaction could be executed through a different solicitor/conveyancer, a solicitor might then complete an SDLT form in good faith, but in fact be completing it inaccurately). Did solicitors/conveyancers have any concerns regarding the integrity of answers to parts of the form, in particular the related transactions part?
- Was there a way that solicitors/conveyancers verified information entered by purchasers or on behalf of purchasers?

7. To explore the relationship between the purchaser and the solicitor/licensed conveyancer

- To assess in detail whether the relationship between the solicitor/conveyancer and purchaser had changed following SDLT
- Had the relationship extended?
- Were purchasers more involved in the process – in particular where the information supplied to HMRC was incorrect or the return had not been validated?

- What impact had information being sent to both the solicitor/conveyancer and the purchaser had – was there more pressure on solicitors'/licensed conveyancers' to comply first time round?
- Who was financially accountable when mistakes were made on the return – the purchaser or the solicitor/conveyancer?

Appendix 2: SDLT – Discussion Guide

1. Introduction

- Thanks for agreeing to take part
- This is research to understand better the change in practices brought about by SDLT and the attitude towards these changes amongst solicitors and licensed conveyancers
- We're interested in your view as a professional involved in making SDLT returns
- Emphasise informality of discussion, reassure confidentiality
- Gain permission to record for OLR purposes only
- Gain respondent's permission for HMRC to see anonymised transcripts if it would be helpful so that HMRC can gain a fuller understanding around a particular issue
- Respondent introduction – their role and responsibilities

2. Warm up and establishing their context

- Brief description of their role and responsibilities within their firm
- What is their personal involvement in the SDLT process
- Firm details
 - Size of firm
 - Number of people within firm dealing with SDLT
- SDLT transactions that the firm deals with in a year
 - How many do they do per year
 - Describe their typical client base
 - What are the busiest times of the year
 - Has the amount of conveyancing they do changed over the years – in what ways
 - Is the conveyancing side of the firm growing / steady / declining

Brief overview of their perspective on the change to the system

1. Thinking back - when they first heard that Stamp Duty was changing to SDLT what was their response and why?
 2. When they first learned about the new return system in terms of completing the SDLT1 form and supplementary forms what was their response and why?
 3. What is their view now and why?
 - To what extent have expectations been borne out by experience and why?
 - What aspects of the new system work well and why?
-
- *What do they perceive to be the main objectives for changing the system nationally and why?*
 - *To what extent do they think the new system meets its objectives and why?*
 - *Prompt: do they think it is fairer and why?*
 - *Do they think it has reduced avoidance of Stamp Duty and why?*

3. Objective: to explore what impact SDLT has on business practices

(Question in particular for key decision-makers)

- How have their systems had to change and why?

Questions for both key decision-makers and frontline staff

- What was the process internally under the old Stamp Duty System
 - Who did what in the firm?
 - How did they do it (e.g. manually / online, etc)?
 - What (quality control) checks were there for errors?
 - Any errors that tended to occur?
 - How long did it take to complete the form and why?
 - How involved was the client and why?

Using process map of the new system as a prompt:

- What is the process internally now for completing land transaction returns?
 - Who does what now (i.e. are more or less tasks delegated)?
 - What (quality control) checks are there for errors?
 - How do they do it (e.g. any changes in processes, especially shift to online)?
 - And how long does it take and why (is it quicker / longer to do now c.f. before)?
 - How involved is the client now (more or less) and why?
- In summary, to what extent do they perceive the new system to be easier and simpler than the old one and why?
- Do they think SDLT is an improvement on the old system and why?
 - Separate out teething troubles vs long term impacts
- What longer term impact do they think SDLT will have
- Is this broadly positive or negative for
 - Themselves as practitioners?
 - Their clients?
 - HMRC?
- Do they perceive there to be a shift in the industry and from within HMRC towards e-business/on-line services re SDLT
 - What impact do they perceive this will have on their business

Questions particularly for key decision-makers

Costs

- What do they perceive to have been the main impacts (costs and benefits) of the new system and why, for:
 - (a) them
 - (b) their clients
 - (c) HMRC

- Using timeline map, map scale of impact of costs and benefits and trajectory to date (increasing or decreasing cost)? Using grid to explore administrative costs that they may have faced both at the start of SDLT (set-up costs) and ongoing costs
 1. Initially bedding the system down (inc. HMRC moving away from first 6 months of 'Light Touch' regarding SDLT returns)
 2. Explore perceptions of stage of development now (e.g. now new system is set up)
 3. Map trajectory into the future (i.e. once system established)
- Do they have any evidence of cost savings (e.g. billable hours / timesheet data)?
 - Are any cost savings passed on to the client?
- OR have increased costs resulted in a rise in their rates to clients?
- What overall is driving changes in costs? What, if anything, are they doing to manage changes in costs?

Questions for both key decision-makers and frontline staff

Change in relationships

- How else, if at all, has their relationship changed with: (a) the client; and (b) HMRC?
- Are purchasers more or less involved in the process?
- What impact has information being sent to both the solicitor/conveyancer and the purchaser had – is there more pressure on solicitors'/licensed conveyancers' to get things right first time round?
- Who is accountable for getting the returns right (purchaser or solicitor / conveyancer) *nb legally the purchaser is always accountable?*
- Despite the fact that the purchaser is legally accountable for getting the returns right what role are they as the professional playing in this?
- What additional information (if any) do they provide the purchaser with so that the purchaser can assess whether the information on the form is correct?
- What if the solicitor/conveyancer enters the incomplete/wrong information on the return or calculate/sends the wrong amount of money or delays payment and a penalty is incurred?
- If solicitors/conveyancers make mistakes who is incurring the costs of that mistake?

- What effect do they feel the new system may have had on avoidance of paying SD?
- How do they currently verify information provided by purchasers / on behalf of purchasers?
 - How effective are verification procedures?
 - Split/related transactions - Do they have any concerns regarding the integrity of answers to parts of the form, in particular the related transactions part?
- What else could be done to ensure information provided and entered on returns is accurate? If not, could they / how could they?
- Overall, is this an issue or concern for solicitors/conveyancers, i.e. the integrity of answers to parts of the form (especially the transactions part)?

4. Objective: to gather detailed information on the returns process

(Questions in particular for frontline staff)

- Who is responsible for each part of the process
- What role is played by:
 - Solicitor/conveyancer
 - Frontline staff
 - Purchaser

Using the new return forms and processes as a visual prompt:

- Are the new return forms / processes considered easier or more difficult to complete and why?
- What parts have they found the most straightforward to get right?
 - What is working well?
- What training (if any) have you received?

- Are they aware of having got any parts of the return wrong in the past? Both in terms of completing the form(s) and making payments
 - Which errors have occurred?
 - Why do they think this is? (identifying key drivers)
 - Whose responsibility do they think it is?
 - How have they resolved these errors? (*see questions on info and guidance below*)
 - What has HMRC done to help them?
 - What has been done internally within the firm to help them?
 - How have they tried to prevent them from happening again in the future?

- Are they aware of parts of the return that they or colleagues find problematic still in completing correctly? Explore why these problems are arising still
 - Do problems continue to occur because of the processes within the firm itself?
 - Or because of insufficient help from HMRC?

- Are there any other areas of difficulty in completing returns possibly concerning: (use prompts)
 - Related transactions
 - Assessing duty
 - Lease duty (for example calculating tax based on ascertainable annual rent charges)
 - Disadvantage Area Relief (DAR) – and conducting postcode searches

Using scenarios (on prompt cards) to explore reasons for errors

- To what extent do they think these may occur?
- How should these be tackled and why?

5. Objective: to assess the quality and availability of HMRC information and guidance on SDLT

(Questions for both key decision-makers and frontline staff)

- (What have been their main queries and problems with SDLT overall?)
- How do they go about resolving queries?
- Spontaneously, which HMRC information sources are they aware of and which do they currently use for SDLT?

(Questions in particular for frontline staff)

- Access to information and advice (*enabling HMRC to understand is whether the information HMRC sends out is going to the right people, and if not how things can be improved*)
 - How does this reach them so they can benefit from it?
 - Is it sent directly to them within the firm?
 - Or generically to the firm?
 - Who passes it on to them?
 - Do they discuss/share it with colleagues?

- At what stage in the process do they use these HMRC sources (using prompt cards for paper-based guidance notes, newsletters, online guidance, and Enquiry line)?
- Which of these do they use and why?
- Any they do not use and why?
- What do they perceive as the strengths of the sources cited and why?
- Any weaknesses and why?

- What expectations do they have of HMRC support and guidance generally and why?
- To what extent have these been borne out by actual experiences setting up the new SDLT system internally?
- Overall, how satisfied are they with HMRC sources in relation to SDLT?
 - Has it helped them to get things right more often?
- What changes and improvements could be made overall to the support to help them overcome problems in completing returns/the process? Prompt with list of main sources (telephone, helpline, online), using physical examples where possible

- What other non-HMRC information sources have they used and how do they compare (e.g. usefulness, ease of use, trustworthiness)?
- Check: if they use helplines, can they get through quickly, and are they getting the information that they need, etc?

6. Objective: to explore reactions to and use of e-business and online services

(Questions for both key decision-makers and frontline staff)

Overall perceptions of e-business and online services

- What, if any, e-business process and other online services do they use within their business?
- And personally (to establish personal confidence with online facilities)?
- What do they see as the main advantages and disadvantages of e-business compared to other options (e.g. other IT, paper-based systems)?

Using HMRC online services

- Are they currently using any online services (i.e. CD-ROM, case management software, on-line form (although at present this form can not be submitted on-line, it has to be printed off and signed by the purchaser)? If yes:

- Which and why?
 - If using them, what are their views on the effectiveness of an E-based system (for filing and payment of tax, for information, for completing SDLT return forms, etc)?
 - Any difficulties and how should these be tackled?
 - Views and opinions about the usefulness of these services
 - HMRC online form – reactions to the online help and validation process
- If they are not using e-services, has the shift to online/e-business HMRC services like on-line returns (although not online filing yet), CD-ROM, case management software been considered?
 - What are their reasons for not adapting them so far?
 - Have they received or are aware of the new SDLT CD-ROM (*whereby forms can be completed on PC, verified, provided with unique barcode and printed and sent to HMRC*)?
 - If they have used it, how helpful is it?
 - Any aspects which they find unhelpful or confusing?
 - What do they think about the planned development of online services for SDLT whereby agents will be encouraged in the future to complete and submit returns electronically?
 - Strengths?
 - Weaknesses?
 - Expectations?
 - What do they think about the overall HMRC strategy for moving agents from using paper based systems towards e-business?
 - What opportunities does this present
 - What challenges are there for them
 - What would help a firm like theirs develop in line with this strategy
 - What information, support and guidance is needed to enable them to shift to completing returns on a PC and to submitting them electronically?

7. Summing up

- Improving the system - what would their final message be to HMRC about how to improve the SDLT system
 - Why do they say this
- Any other final comments?

Thank and close