

KIR Consultation Survey Response

REGISTERS OF SCOTLAND KEEPER-INDUCED REGISTRATION CONSULTATION DOCUMENT – OCTOBER 2015

RESPONSES FROM NORTH LANARKSHIRE COUNCIL

(1) **Do you agree with the proposed approach to KIR starting with residential properties in research areas?**

- (a) It is understood that KIR is not to apply to public land, so from the Council's perspective, there is limited interest in the manner in which KIR proceeds.
- (b) It is noted that with this approach the number of registrations will increase, but there will be limited progress in registration of the Scottish land mass.

(2) **Do you agree that we should start KIR in areas that will have the highest impact on completing the Land Register and supporting conveyancing?**

- (a) From the Keeper's perspective, the proposals make sense.
- (b) Conveyancing may be better supported if more complex cases could be addressed.
- (c) If, as stated above (question 1) KIR is not to apply to public land, the Council has no further comment to make.

(3) **Should land that has entered the Land Register through KIR be identified differently from a trigger-based or voluntary registration through a note in the Property Section of the Title Sheet, and/or a separate field marking the date of Keeper-Induced Registration ?**

The Council considers that it is important that land which has been the subject of KIR is clearly identified, both from the perspective of the current owner/heritable creditor, as the owner will have had no opportunity through an application process to provide information, and from the perspective of subsequent purchasers for whom it should be clear on what basis the Keeper's warranty has been given.

(4) **Do you agree with the Keeper's general approach to the KIR mapping of legal extent?**

The Council has no issue with the Keeper's approach although it would be preferable if in the case of a potential limitation or exclusion of warranty, the owner/heritable creditor was contacted. It is noted that in such a case the issue will be thoroughly investigated and any possible solutions identified.

(5) **Do you agree with the Keeper's proposed approach to incorporeal pertinents?**

The Council agrees that the Keeper's approach is reasonable, but otherwise has no comment to make.

(6) **Do you agree with the Keeper's proposed approach to property titles that include an "equally and survivor" destination or are held by ex officio Trustees?**

The Council agrees that the Keeper's approach is reasonable, although the Title Sheet will lack certainty in these instances and prospective purchasers will be obliged to look beyond the Title.

- (7) **Are there any circumstances where the Sasine Register may not show the last person with a completed Title?**

If Council property were to be involved in the exercise, there would be many Sasine titles where the last recorded Title is a predecessor authority, although it is acknowledged that the predecessor authority would be the last person with a completed Title.

- (8) **Do you foresee any practical difficulties in narrating a full list of the deeds that contain encumbrances, rather than setting out the burdens in full? If so, how could these difficulties be addressed?**

The Council considers that there would be practical difficulties in narrating a list. Solicitors would need to look beyond the Title Sheet. The copies on the hyperlink may be difficult to read and copies of the deeds may have to be obtained. The Title Sheet would not be a transparent document and surely the ethos of land registration is transparency.

- (9) **Do you agree that the Keeper should adopt the same approach to listing deeds in the Burdens Section for triggered registrations with a hyperlink to the text of the deed?**

The Council does not agree that the Keeper should adopt this approach (see comments at question 8 above).

- (10) **Are you content with how we plan to communicate KIR?**

Pre – KIR:-

- (a) The Council is concerned that the Keeper's proposals may not be sufficient and, in addition to what is proposed, information must also be communicated to the public with clear explanation as to how their property will be affected.
- (b) The Council should also be informed about KIR affecting its area, as KIR may have an impact on adjacent Council properties.

Post – KIR:-

The letters to the registered owners should explain clearly how the KIR process has affected the property concerned and should specify a telephone number/helpline for any queries the owner may have. The owner should perhaps be advised that it may be in his/her best interests to take independent legal advice, although we would be concerned that the owner should not incur any unnecessary expense in this regard.

- (11) **Do you agree that the Keeper should provide guidance on the additional information likely to be required at the next transaction after a KIR?**

The Council agrees that guidance should be produced both with regard to the additional information likely to be required and also how to deal with a situation where warranty has been limited or excluded.