

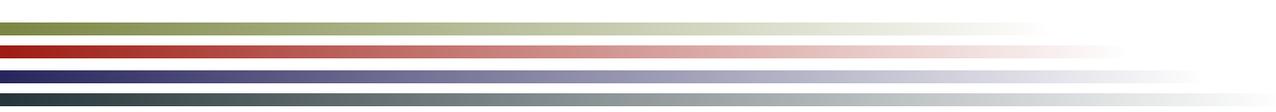


**Registers
of Scotland**

Registers of Scotland

Framework Document

April 2015



Introduction

1. This framework document has been agreed between the Scottish ministers and the Keeper of the Registers of Scotland (the keeper). It sets out the roles and responsibilities of the keeper, the Registers of Scotland (RoS) accountable officer, the Scottish ministers, the Lord President of the Court of Session and the relevant director general in the Scottish government. It also sets out RoS' governance and financial arrangements.

RoS' status and functions

2. RoS is a non-ministerial department, which operates as a trading fund. RoS is headed by the keeper, who is a non-ministerial office holder in the Scottish administration and the chief executive of RoS. The principal legislative provisions underlying the functions of the keeper are set out in Appendix 1.

3. RoS' function is to maintain the public registers for which the keeper is statutorily responsible and make the information they contain publicly available. A list of all the public registers for which the keeper is responsible is set out in Appendix 2.

Purpose and objectives

4. RoS provides Scotland's citizens and institutions with the social and economic benefits that flow from a publicly guaranteed system of rights in land and property. RoS' purpose is to serve its customers and underpin the Scottish economy efficiently and effectively.

5. RoS' strategic objectives are set out in its corporate plan and are reviewed regularly. By working to meet these strategic objectives, RoS contributes to the Scottish government's purpose and objectives, and plays its part in delivering national outcomes¹.

Role of the keeper

6. The keeper is responsible for the efficient and effective operation of RoS, for leading its staff, and for the statutory functions placed upon the keeper in relation to the management, control and maintenance of the various public registers set out in Appendix 2. The keeper is not subject to the direction of the Scottish ministers in relation to the exercise of the keeper's statutory functions.

7. In addition to the responsibilities provided for in statute, the keeper may provide consultancy, advisory and other commercial services that need not relate to the law and practice of registration. The provision of these services is on a commercial basis where the terms and fees are agreed with the customer. To provide these services, the keeper may form or participate in the forming of a body corporate or other entity, or purchase or invest in such a body².

¹Details of the national outcomes to which RoS contributes are set out in RoS' corporate plan.

²This reflects the statutory provision in section 108 of the Land Registration etc. (Scotland) Act 2012 and is, where applicable, subject, amongst other things, to competition law and OFT guidance; procurement law and guidance; the Scottish Public Finance Manual.

8. The keeper undertakes functions delegated by Revenue Scotland in relation to land and buildings transaction tax (LBTT). This relationship is set out in a Memorandum of Understanding between RoS and Revenue Scotland. Delegation to the keeper does not affect Revenue Scotland's responsibility for those functions. The keeper is also responsible for ensuring, where a document effecting or evidencing a transaction that is notifiable for LBTT is presented for registration, that the application for registration is not accepted unless a land transaction return has been made in relation to the transaction and any tax payable in respect of the transaction has been paid.

9. The exercise of the keeper's statutory functions is subject to the available statutory forms of appeal to the courts (for example, an appeal may be made to the Lands Tribunal for Scotland, on a question of fact or on a point of law, against any decision of the keeper in respect of the operation of the land register) and may be subject to the jurisdiction of the Scottish Public Services Ombudsman. Other functions of the keeper are subject to judicial review of administrative actions by the Court of Session.

10. The keeper must also:

- achieve such financial objectives as are determined by the Scottish ministers from time to time
- prepare for each financial year accounts of expenditure incurred in the fulfilment of the keeper's functions, and income received
- arrange for an audit of the annual accounts by the Auditor General for Scotland in the appropriate time period
- lay RoS' annual report and accounts before the Scottish parliament, and arrange for their publication
- deal with freedom of information requests and data protection subject access requests
- promote the efficient, economic and effective use of staff and other resources by RoS, consistent with the principles of best value, including, where appropriate, participation in shared services arrangements

11. The keeper chairs the non-statutory RoS board, the role of which is to provide strategic advice to the keeper. The board consists of the keeper and executive and non-executive directors who are appointed by the keeper. Its terms of reference are set out in Appendix 3.

Role of the RoS accountable officer

12. The operations director of RoS is the RoS accountable officer and is appointed as such by the permanent secretary of the Scottish government, as principal accounting officer, in accordance with the terms of the Public Finance and Accountability (Scotland) Act 2000. (The principal accountable officer may only designate a member of the staff of the Scottish administration as the accountable officer; therefore, it is not possible for the keeper, as an officer of the Scottish administration, to exercise the functions of accountable officer.)

13. The RoS accountable officer is personally responsible for the safeguarding of public funds, for ensuring propriety and regularity in the handling of those funds, and for ensuring that RoS complies with the requirements of the Scottish Public Finance Manual (SPFM). The full range of responsibilities of the accountable officer is set out in the Memorandum to Accountable Officers for Parts of the Scottish Administration, published in the SPFM.

14. The RoS accountable officer may consult with the relevant director general (DG) (as portfolio accountable officer) on any aspect of the duties applying to accountable officers in the Scottish government and will consult the DG on any action which that person considers is inconsistent with their duties on financial, regulatory or propriety grounds and specifically where they seek a written authority from the Scottish ministers in terms of the SPFM or a direction from the keeper.

Role of the Scottish ministers

15. The Scottish ministers have a number of powers and duties in relation to the discharge of the keeper's functions. In particular:

- with the consent of the Lord President of the Court of Session, to appoint the keeper, and to determine the terms and conditions of service
- taking account of RoS' income, expenditure and cash reserves, to set financial objectives for the keeper
- to make, by Scottish statutory instrument, provision as regards information to be made available by the keeper and the manner in which that information is made available
- to make, by Scottish statutory instrument, provision as regards access to any register under the keeper's management and control
- to set or authorise, by Scottish statutory instrument, after consultation with the keeper, the fees payable in relation to: registration, recording or entering in any register under the keeper's management and control and statutory access to such a register
- to make, by Scottish statutory instrument, after consultation with the keeper, land register rules in relation to the making up and keeping of the land register and regulating the procedure in relation to applications for registration, and prescribing the forms to be used and other matters
- to make, by Scottish statutory instrument, after consultation with the keeper, regulations to enable the electronic registration of valid electronic documents in any register under the keeper's management and control
- to make, by Scottish statutory instrument, after consultation with the keeper, provision for a digital system that will allow for the creation of electronic documents, the electronic generation and communication of applications for registration in the land register, and for automated registration in the land register
- to prescribe, by Scottish statutory instrument, after consultation with the keeper and other interested persons, that the recording of a deed in the General Register of Sasines will not have effect, thus closing the register to such a deed. The instrument can make provision for the closure of the register in a phased manner
- to make, by Scottish statutory instrument, regulations as to the methods of operating the General Register of Sasines, including the manner of recording a deed and the medium in which deeds may be recorded
- to make, by Scottish statutory instrument, after consultation with the Lord President of the Court of Session, rules prescribing the form of application for recording of a deed and regulating the procedure relating to applications for recording in the General Register of Sasines

16. The Scottish ministers and the keeper are committed to the aim of good, open and proactive two-way communications, especially where the work of one has any bearing upon the responsibilities of the other. Each will ensure that the other is informed in advance of any significant announcements or publications that may affect the other's policies or operations.

17. The Scottish ministers will look to the keeper for advice on policy and operational issues related to land registration and to the registers under the keeper's control or which may come under the keeper's control.

Role of the Lord President of the Court of Session

18. The lord president consents to the appointment of the keeper.

19. In addition to those matters where the lord president must be formally consulted, the Court of Session may make provision, by Act of Sederunt, in relation to certain matters concerning the General Register of Sasines, such as arrangements for the transmission of the register volumes to the Keeper of the Records of Scotland.

Role of the Scottish government director general

20. The relevant DG is responsible for ensuring that effective working relationships are maintained between RoS and Scottish ministers. The DG will also promote organisational alignment between RoS and the Scottish government as appropriate, by ensuring that:

- the keeper and RoS board are aware of strategic developments and corporate decisions that may affect RoS
- RoS' strategic aims and objectives are aligned to the Scottish government's purpose and the national outcomes set out in the National Performance Framework
- the position of RoS is taken into account in relevant Scottish government policy decisions, and that the Scottish government has due regard for advice provided by the keeper
- an appropriate framework document is in place, and is maintained

21. The DG (as portfolio accountable officer with responsibility for propriety and good management in financial and management controls across the portfolio):

- may consult with the RoS accountable officer on any aspect of that person's duties in terms of the Scottish Public Finance Manual (SPFM)
- will provide guidance in any matter where the RoS accountable officer seeks advice in relation to a written authority from Scottish ministers in terms of the SPFM
- will provide guidance to the RoS accountable officer on any matter that would require a direction from the keeper

22. Other DG responsibilities include:

- supporting Scottish ministers in the discharge of their duties in respect of RoS
- providing support and constructive challenge to the keeper and accountable officer to ensure that RoS is high performing and continuously improving
- ensuring, where necessary, that appropriate core Scottish government corporate services are available to support and facilitate the work of RoS
- ensuring RoS is taking steps to improve its operating efficiency, including through participation in collaborative procurement and shared service arrangements
- line management of the keeper, as a senior civil servant, including carrying out the keeper's performance appraisal

Financial planning and control

23. RoS operates as a trading fund and has to cover all expenditure from income generated. It makes no call on the Scottish Consolidated Fund. RoS is responsible for preparing and managing its budget for each financial year. It also sets out a scheme of delegated authority by which financial and management responsibilities is cascaded to appropriate levels within the organisation. The scheme of delegation, which reflects the requirements of the SPFM, is reviewed by the RoS board each year and reported in board minutes, which are published on the RoS website.

24. In terms of section 9 of the Public Finance and Accountability (Scotland) Act 2000, all sums received by the keeper in connection with the exercise of the keeper's functions must be retained and applied to meet expenditure.

25. RoS must ensure that it holds sufficient cash reserves to cover: (i) compensation payments, including keeper's warranty; (ii) costs in years where expenditure exceeds income; and (iii) investment in the business. Scottish ministers will take account of reserve needs when considering setting fees and financial objectives.

26. RoS has established and will maintain appropriate financial procedures in accordance with the principles of the SPFM and will ensure that appropriate counter-fraud, anti-bribery arrangements, IT security and whistle-blowing policies are in place in accordance with this guidance.

27. RoS has established internal audit mechanisms in accordance with the objectives and standards laid down in the Government Internal Audit Manual.

28. RoS is subject to external audit by the Auditor General for Scotland (AGS) or by auditors appointed by the AGS.

29. Revenue Scotland reimburses the keeper for any expenditure incurred which is attributable to the exercise by the keeper of functions delegated to RoS by Revenue Scotland in relation to LBTT.

Corporate and business planning

30. RoS produces a corporate plan, which demonstrates RoS' alignment to the Scottish government national performance framework, national outcomes and economic strategy. It is placed in the Scottish Parliament Information Centre and is published at the start of each financial year.

31. The corporate plan sets out RoS' vision and values and the strategic objectives that support them, along with the activities that will be undertaken to underpin these. It also contains business, financial and resource forecasts. In addition, it includes the service standards set by the keeper and the financial targets set by Scottish ministers, along with associated milestones and timescales. These are announced by way of a parliamentary question in the Scottish parliament.

RoS audit committee

32. RoS' internal and external audit work is overseen by its audit committee, which is a non-executive committee of the RoS board and is chaired by a RoS non-executive director. Its terms of reference are set by the board.

RoS staff

33. RoS staff are civil servants and are required to adhere to the standards set out in the Civil Service Code. They are part of the Scottish administration and are assigned by the Scottish ministers to the keeper to enable the exercise of the keeper's functions. RoS staff act under the direction of the keeper.

34. The keeper and operations director are also civil servants and are members of the senior civil service. Their terms and conditions, remuneration and development are the responsibility of the Scottish government.

35. RoS' staff exercising functions delegated to the keeper by Revenue Scotland have particular responsibilities not to disclose protected taxpayer information; wrongful disclosure of protected taxpayer information is an offence for which the person making the disclosure may be prosecuted.

36. RoS has the authority to determine: the terms and conditions relating to staff remuneration (excluding pensions) within the parameters set by Scottish ministers for public sector pay; and other working arrangements in the interests of the efficient and effective management of RoS.

37. RoS is responsible for determining its organisational and management structure and the numbers and levels of staff. It is also responsible for ensuring that staff recruitment arrangements are fair, open and transparent, meeting the requirements of the Civil Service Commission's Recruitment Principles.

38. RoS is responsible for the personnel management, performance appraisal and grading of all RoS staff (except for those in the senior civil service). This includes the ability to make promotions, to deal with inefficiency, disciplinary and grievance matters, grading, equal opportunities and health and safety matters.

39. RoS is responsible for ensuring there are adequate organisational development and human resource management arrangements in place. RoS aims to offer its staff rewarding career opportunities and is committed to fostering career development, diversity and equal opportunities.

40. RoS' staff are eligible to apply for posts in the Scottish government and across common citizenship organisations in the Scottish administration. Scottish government and common citizenship organisations' staff are eligible to apply for posts in RoS.

41. RoS is committed to effective communication with its staff and staff representatives and is responsible for promoting and supporting effective employee relations.

42. RoS is responsible for the health and safety and security of staff and visitors to its premises.

Risk management

43. RoS is required to implement and monitor appropriate risk management arrangements in accordance with the relevant guidance in the SPFM.

Freedom of Information

44. RoS has adopted the Model Publication Scheme 2012, produced by the Scottish Information Commissioner.

Scottish Public Services Ombudsman

45. RoS' activities may be subject to investigation by the Scottish Public Services Ombudsman (SPSO). RoS will maintain a complaints and appeals procedure that complies with the statement of principles published by the SPSO and will publish it on its website.

RoS and the Scottish parliament

46. Members of the Scottish parliament (MSPs), through parliamentary questions, may ask the Scottish ministers about their own relations with the keeper and ministers will answer such questions. However, the Scottish ministers are not accountable for the keeper's operations and where questions are asked about matters that are the responsibility of the keeper, the minister's answer will state this position and refer the MSP to the keeper.

47. Should the Scottish ministers receive correspondence about the keeper's operations, this will be forwarded to the keeper for an appropriate response.

48. The keeper, the RoS accountable officer or, where appropriate, members of RoS' staff, will give written or oral evidence to committees of the Scottish parliament when invited to do so. The Scottish parliament has the power to require the keeper, the RoS accountable officer, or any member of RoS staff to attend a parliamentary committee.

Review of framework document

49. This framework document will be reviewed at least triennially. Changes may be proposed by the keeper or the DG before a review in the light of experience or changed circumstances.

50. Copies of this framework document, and of any subsequent editions, will be published and placed in the Scottish Parliament Information Centre and on the RoS website and will form part of the RoS publication scheme under freedom of information provisions.

51. Any enquiries about this framework document should be addressed to:

RoS Secretariat
Registers of Scotland
Meadowbank House
153 London Road
Edinburgh
EH8 7AU

Email: rossecretariat@ros.gov.uk

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Legislation providing a statutory background for the functions of the keeper:

Registration Act 1617
Public Records (Scotland) Act 1809
Act of Sederunt 10 July 1811
Land Registers (Scotland) Act 1868
Titles to Land Consolidation (Scotland) Act 1868
Judgments Extension Act 1868
Conveyancing (Scotland) Act 1924
Public Registers and Records (Scotland) Act 1948
Land Registration (Scotland) Act 1979
Civil Jurisdiction and Judgments Act 1982
General Register of Sasines (Scotland) Act 1987
Scotland Act 1998 (Section 38(1))
Public Finance and Accountability (Scotland) Act 2000
Land Reform (Scotland) Act 2003
Agricultural Holdings (Scotland) Act 2003
Nature Conservation (Scotland) Act 2004 (Section 22)
Crofting Reform (Scotland) Act 2010
Land Registration etc. (Scotland) Act 2012
Scotland Act 2012
Land and Buildings Transaction (Scotland) Act 2013
Revenue Scotland and Tax Powers Act 2014

List of public registers under the control of the keeper of the Registers of Scotland:

Land Register of Scotland
General Register of Sasines
Register of Community Interests in Land
Crofting Register
Register of Deeds and Probative Writs in the Books of Council and Session
Register of Inhibitions and Adjudications
Register of Judgments
Register of Protests
Register of Sites of Special Scientific Interest
Register of the Great Seal
Record of the Cachet Seal
Register of the Quarter Seal
Register of the Prince's Seal

The following registers remain under the keeper's control but are no longer in use:

Register of Service of Heirs
Register of Crown Grants
Register of Sheriffs' Commissions
Register of Hornings

Who are we?

The members of the board are:

- keeper (chair)
- operations director
- business development director
- commercial services director
- corporate services director
- finance director
- non-executive directors

The head of communications will attend as required to provide advice.

Executive members may arrange for a substitute to attend on their behalf when the need arises. However, any substitutes will be 'in attendance' and will not form part of the quorum. In the keeper's absence, the operations director will act as chair.

The board is provided with secretariat services by the [RoS secretariat](#).

Why does the board have non-executive directors?

The board's non-executive directors are there to:

- provide an external perspective on RoS' work
- bring constructive challenge
- help develop proposals on strategy
- bring specific expertise to discussions

What is our role?

The board's role is to provide strategic advice to the keeper.

The main focus of our work is:

- setting and communicating RoS' vision and values
- setting strategy and objectives for RoS and ensuring that the necessary financial, human IT and physical resources are in place to deliver them
- setting a framework of prudent and effective controls that enables risk to be assessed and managed
- monitoring and improving RoS' performance

How do we work?

We meet at least quarterly. A minimum of six members need to be present for our meetings to be deemed quorate. The quorum must include the keeper or the operations director and one non-executive director.

We may ask other staff from RoS or from outside RoS to attend to assist us with our discussions on any particular matter.

Our work is planned by means of a rolling annual agenda. A draft agenda is issued at least two weeks in advance of each meeting and papers are normally circulated a week in advance. Board members who wish to put forward agenda items should do so at least ten days before a meeting. Papers for meetings must also be submitted ten days before a meeting. A record of the decisions made and the agreed action points is circulated within a week of the meeting. Board minutes are also made available within two weeks and are placed on the RoS website and intranet once they have been agreed at a subsequent board meeting.

What about sub committees?

The board is supported by:

(1) the executive management team (chaired by the operations director), which is responsible for leading and undertaking the operational management of RoS

(2) the audit committee (chaired by a non-executive director), which supports the board and the accountable officer in their responsibilities for issues of risk, control and governance and associated assurance through a process of constructive challenge

(3) such other sub groups as the board considers are necessary

How can staff engage in board business?

A variety of staff members are involved in preparing papers for the board and will be invited to attend to present their paper or give background information on the issue. Staff can feed in comments on board business either through their team leaders, their director or the RoS secretariat.

Performance assessment

We will assess annually our performance as a board with the intention of continuously improving our effectiveness.

