

## KIR Consultation Survey Response

### PAGE 2: Information about you

Q1: Name: Janet Taylor

Q3: Are you responding as: (please select below)  
an individual

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Q4: Individuals Do you agree to your response being made available to the public (in the Scottish Government library and on the RoS website)?

Yes

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Q5: Where confidentiality is not requested, we will make your response available to the public on the following basis (Please select ONE of the options)

Yes, make my response and name available, but not my email address

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Q6: On behalf of groups or organisations The name of your organisation WILL BE made available to the public (in the Scottish Government library and on the RoS website). Are you content for your response to be made available?

*Respondent skipped this question*

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Q7: 1. Do you agree with the proposed approach to KIR starting with residential properties in research areas?

No

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**Comment:** KIR should not start. The trials show that a strong possibility of inaccuracy of title sheets is likely. This is not acceptable and negates any perceived benefits. Although a research area is more likely to result in title sheets being accurate it is inequitable that ordinary property transactions will fund the "free" KIR. The suggested format of the title sheet, which cannot guarantee the ownership, extent, rights or burdens, will create another tier of land registration which will be confusing. The Registers core role for land registration is currently being inadequately serviced and it is important that funding is not utilised for a role which, given the inferior tier of registration gives no benefit to owners or the public.

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**Q8: 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?**

No

**Comment:** KIR should not start. The greatest impact would be research areas - probably housing developments - where the least number of properties are currently on the Land Register. This would be the north most counties which were the last to be brought onto the Land Register system. The communities in those counties are already being prejudiced by having proportionally more first registrations to deal with. The introduction of the Application Form following the 2012 Act has led to further prejudice as the Form is not fit for purpose, does not follow either logic or conveyancing, has insufficient guidance when trying to guess what the IT writer who has no knowledge of conveyancing had intended, no real support from Register staff who are unable to answer questions without referral to someone more senior, no ability to speak to anyone in the intake section who might be able to answer a question on intake policies and those policies being decided by a straw poll without then being passed onto the legal profession. No account has been taken of the additional cost to solicitors during the research area consultation period by the consultation or contact by worried clients, ( free work should be by choice not forced by an unrealistic aspiration) nor the costs to owners should rectification be required. The process, even without errors is likely to cause unwarranted stress to owners and especially if the error only becomes apparent during a limited timescale if the property is being sold and the title sheet is seen by a professional at that time.. It is inequitable that owners of non research areas should fund KIR through registration fees. It is inappropriate and unacceptable that a further tier of title sheets should be created.

**Q9: Q3. Do you agree that we should work in partnership with the owners of heritage assets to complete registration of their titles by KIR?**

No

**Comment:** KIR should not be utilised to provide a “free” service to owners of heritage assets at the cost of ordinary ongoing applications. The consultation paper highlights the difficulty with this method which is a indication of the resources needed for KIR in general.

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**Q10: Q3. 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?**

No

**Comment:** KIR should not start. The current system asks the granter to confirm the extent, the Application forms asks the application/ agent to confirm the owner rights and burdens. The Keeper cannot confirm any of this information so must therefore have a different method of identification. This separate tier of land registration will be confusing and is unacceptable. There would be no benefit to another tier of land registration especially as very little of the information could be relied on. Even with a different identification the keeper’s use of data to transfer from Sasine to Land Register would be inappropriate going against the concepts of Data Protection by use of data only if essential. The registration system is voluntary, there being no legal requirement to register a property transaction. To use date from one system and place it on a system which is easier and cheaper to access is misuse of date and could affect the owners privacy rights.

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**Q11: Q4. Do you agree with the Keeper's general approach to the KIR mapping of legal extent?**

No

**Comment:** KIR should not start. It is essential that the mapping from Sasine deeds is confirmed by the current land owner with personal knowledge and checked against the OS and where appropriate other titles. It is unacceptable to have different levels of accuracy of maps. The Land Register system is already inadequate in that for many properties the title sheet mapping is not sufficient to properly identify a property without reference to the Sasine deeds and/or a site visit

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**Q12: Q5. Do you agree with the keeper's proposed approach to incorporeal pertinents?**

No

**Comment:** KIR should not start. It is essential that the detail from Sasine deeds is confirmed by the current land owner and where appropriate other titles. The information is not within the keepers knowledge and it is unacceptable to include any matter which may be misleading

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**Q13: Q6. 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?**

No

**Comment:** KIR should not start. Details of events which have occurred off register, not restricted to the death of one party, but possibly including a non registered agreement is not within the keepers knowledge and it is unacceptable to include any matter which may be misleading.

**Q14: Q7. Are there any other circumstances where the sasine register may not show the last person with a completed title?**

*Respondent skipped this question*

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**Q15: Q8. Do you foresee any practical difficulties in narrating a list of the deeds that contain encumbrances, rather than setting out the burdens in full? If so, how could these difficulties be addressed?**

Yes

**Comment:** The proposal makes a mockery of the stated aim of transparency of the register. It is essential that the method and level of detail is consistent. To fail to do so negates any benefit of the land registration system and it is unacceptable to have different tiers of title sheets. The solution is that KIR does not commence

**Q16: Q9. 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?**

No this would lead to vastly different methodology of information in title sheets leading to confusion and negating any perceived perception of transparency. Title sheets are already inadequate by the current method of narrating burdens in that often without the full context of the deed and possibly others referred to in the deed or a plan are incomprehensible. The rectification would be that all existing title sheets were brought onto that system ie redoing 35 years of applications, the cost of which would be prohibitive. It would be inequitable for ongoing applicants to fund corrections to the existing system through registrations fees.

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**Q17: Q10. Are you content with how we plan to communicate KIR?**

No

**Comment:** No the Registers current level of communication of guidance is inadequate and any funding available should be utilised to correct that. The proposed communication will lead to greater prejudice to areas where there are currently fewest registered properties and it is unacceptable to expect agents to be forced into pro bono work (or risk alienation clients by refusing to give assistance) with what will be a worrying and possibly incomprehensible process which will not give any benefit to that owner. The suggestion of a dedicated helpline is inequitable as it will be funded via non KIR registration fees. Communication to owners after KIR will be almost impossible as the keeper has no knowledge of off register events or occupancy of a property. Mis- communication could lead to a greater fraud risk.

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**Q18: Q11. Do you agree the keeper should produce guidance on the additional information likely to be required at the next transaction after a KIR?**

Yes

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**Comment:** No KIR must not proceed. The current Application form process and IT must be improved as a matter of urgency and funding must be used for that. Very basic IT issues such as ensuring that communications from the register include a reference, or that emails include sufficient property details and that the contact telephone number on the website works from all areas in Scotland must be corrected. It is inappropriate to utilise funding which could be used to correct basic inadequacies