

Environment, Climate Change and Land Reform Committee

Inquiry into Land Register of Scotland: progress of local authorities in registering their land

Written submission from Highland Council

The Council is aware of the aspiration that all public land be registered by 2019. In line with many other, if not all local authorities, in Scotland the Highland Council will not be in a position to achieve and deliver this aspiration.

I believe it important to highlight initially two factors which present Highland with difficulty. Firstly there is the significant size and geography of the Highland Council area. Secondly there is the fact that the counties that make up Highland did not move on to land registration until 2002/3 some twenty years after the first counties located in central Scotland.

In 2015 legal officers of the Council assessed the implications for the Council in seeking to register all of the Council's land on the Land Register. The results were shared at the time with staff from Registers of Scotland.

1. Cost

Staff sought to ascertain an accurate estimate of how many properties will require to be registered and the potential cost implications of carrying out this exercise. An initial analysis was undertaken of approximately 25% of the data base lists of properties. From this analysis staff assessed that the Council will have approximately 15 000 unregistered properties/areas of land. The majority of these properties/areas of land will consist of several titles and do not have plans that are suitable for Land Registration.

The cost of registering these titles was conservatively estimated at £8.5million based on the following estimates:

Legal / plans reports	£1,500,000
Plans	£3,500,000
Registration dues (based on minimum per property)	£675,000
Copy deeds	£100,000
Solicitors (11)	£1,500,000
Surveyors (4)	£540,000
Architects (4)	£540,00

Notes to the above figures

1. The solicitor costs are based on an assumption that each property will take an average of 5 hours to complete. In practice a great number of properties will

take considerably longer to complete and the costs could be much higher as:-

- a. often a title deed has a bounding description of a property with no plan. Archive plans will require to be obtained and site visits carried out to map the property
 - b. a large number of properties are made up of various titles. These will all require to be mapped to ensure they “fit” together
 - c. Common Good titles – no plans as title derives from Charters from 1600s onwards
 - d. Housing Estates – since the introduction of the Right to Buy legislation the Council has sold thousands of properties. Copies of each break off writ will require to be obtained, and the sold properties mapped, together with areas of common property/shared paths.
 - e. The Council has numerous church yards vested in them by virtue of the Church of Scotland (Property and Endowments) Act 1925. No plans exist of these churchyards so each will require be visited and individually mapped.
2. When a mapping exercise is undertaken title discrepancies will undoubtedly be revealed which will require remedial conveyancing. The cost and time required to deal with these issues has not been quantified
 3. Given the large area covered by the Highland Council area surveyors and architects will require to travel considerable distances to visit and then map properties.
 4. Registration fees are based on the minimum of £45 (£60 less the 25% reduction for voluntary registration). Registration fees are based on the value of the property so in practice the fees will be considerably more but cannot be quantified until each property is valued.

The voluntary registration of the Council’s titles is considered to be of little, if any, benefit to the Council itself, especially given that the Right to Buy Scheme came to an end in 2016 and the Industrial Estates which are let on long leases will gradually become registered through automatic plot registration.

In light of the significant financial commitment potentially involved Highland Council decided in 2015 that it would not take action to pursue land registration of all of its land.

Earlier this year I asked officers from the Council’s Legal Section to meet with staff

from Registers of Scotland following receipt of a letter which indicated that Registers of Scotland might be looking to adopt a different approach to completion of the Land Register which might offer benefits to local authorities. I believe the subsequent discussion focussed on Keeper Induced Registration (“KIR”), how this would be taken forward and the potential benefits this might offer the Council.

I understand that currently KIR will be taken forward only in respect of ‘Research Areas’ where Registers have previously examined the titles. In practice this will probably be restricted to major housing estates. There are 38,000 Research areas in Scotland and Highland will be one of the last counties to undergo KIR. Whilst this development is one that the Council welcomes it does appear that it offers a limited solution and by Register’s own reckoning some 90,000 titles will remain outstanding at the end of the process.

Steve Barron

Chief Executive